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HOUSE BILL NO. 251**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Appropriations)

(Patron Prior to Substitute—Delegate Jones, J.C.)

House Amendments in [] — February 13, 1996

A *BILL to amend and reenact §§ 2.1-116.08, 9-169, 16.1-227, 16.1-248.1, 16.1-249, 16.1-261, 16.1-274.1, 16.1-284, 16.1-284.1, 16.1-285, 16.1-285.1, 16.1-285.2, 16.1-290, 16.1-301, 16.1-303, 16.1-305.1, 16.1-308, 16.1-309.4, 18.2-473, 19.2-3.1, 19.2-311, 19.2-388, 19.2-389, 19.2-389.1, 19.2-390, 19.2-392.01, 22.1-209.1:2, 22.1-344, 29.1-317, 53.1-66, 66-10, 66-13 and 66-24 of the Code of Virginia, and §§ 16.1-228, 16.1-241, 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-269.1, 16.1-269.3, 16.1-269.4, 16.1-269.6, 16.1-272, 16.1-278.8, 16.1-293, 16.1-299, 16.1-302, 16.1-305, 16.1-307 and 16.1-309 of the Code of Virginia, as they are currently effective and as they may become effective and to amend the Code of Virginia by adding sections numbered 16.1-248.2, 16.1-299.1, 16.1-302.1, 22.1-277.3, 22.1-277.4 and 53.1-63.1, relating to juvenile offenders; trial as adults; record information concerning juveniles; powers of the Department of Youth and Family Services; mental health screening for certain juveniles; duration of commitment; notice to victims; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-116.08, 9-169, 16.1-227, 16.1-248.1, 16.1-249, 16.1-261, 16.1-274.1, 16.1-284, 16.1-284.1, 16.1-285, 16.1-285.1, 16.1-285.2, 16.1-290, 16.1-301, 16.1-303, 16.1-305.1, 16.1-308, 16.1-309.4, 18.2-473, 19.2-3.1, 19.2-311, 19.2-388, 19.2-389, 19.2-389.1, 19.2-390, 19.2-392.01, 22.1-209.1:2, 22.1-344, 29.1-317, 53.1-66, 66-10, 66-13 and 66-24 of the Code of Virginia, and §§ 16.1-228, 16.1-241, 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-269.1, 16.1-269.3, 16.1-269.4, 16.1-269.6, 16.1-272, 16.1-278.8, 16.1-293, 16.1-299, 16.1-302, 16.1-305, 16.1-307 and 16.1-309 of the Code of Virginia, as they are currently effective and as they may become effective are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 16.1-248.2, 16.1-299.1, 16.1-302.1, 22.1-277.3, 22.1-277.4 and 53.1-63.1 as follows:

§ 2.1-116.08. Certain employees of the Departments of Corrections and Youth and Family Services.

A. Employees of the Departments of Corrections and Youth and Family Services who work in institutions or ~~learning~~ *juvenile correctional* centers or have client, inmate, or resident contact and who are terminated on the grounds of client, inmate, or resident abuse, criminal conviction, or as a result of being placed on probation under the provisions of § 18.2-251, may appeal their termination only through the grievance resolution steps.

B. If no resolution is reached by the conclusion of the last grievance step, the employee may advance the grievance to the circuit court of the jurisdiction in which the grievance occurred for a de novo hearing on the merits. In its discretion, the court may refer the matter to a commissioner in chancery to take such evidence as may be proper and to make a report to the court. Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives before the court or the commissioner in chancery. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the court or commissioner in chancery without being in violation of the provisions of § 54.1-3904.

C. A termination shall be upheld unless shown to have been unwarranted by the facts or contrary to law or policy. The decision of the court shall be final and binding.

§ 9-169. Definitions.

The following words, whenever used in this chapter, or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, shall have the following meanings, unless the context otherwise requires:

1. "Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

2. "Board" means the Criminal Justice Services Board.

3. "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.1-144, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal

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60 Justice Services Board and submits reports of compliance with the training standards and (b) the private
61 corporation or agency complies with the provisions of Article 3 (§ 9-184 et seq.) of Chapter 27 of Title
62 9 but only to the extent that the private corporation or agency so designated as a "criminal justice
63 agency" performs criminal justice activities.

64 4. "Criminal history record information" means records and data collected by criminal justice
65 agencies on ~~adult~~ individuals consisting of identifiable descriptions and notations of arrests, detentions,
66 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
67 not include ~~juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title~~
68 ~~46.1~~, criminal justice intelligence information, criminal justice investigative information, or correctional
69 status information.

70 5. "Correctional status information" means records and data concerning each condition of a convicted
71 person's custodial status, including probation, confinement, work release, study release, escape, or
72 termination of custody through expiration of sentence, parole, pardon, or court decision.

73 6. "Criminal justice information system" means a system including the equipment, facilities,
74 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
75 dissemination of criminal history record information. The operations of the system may be performed
76 manually or by using electronic computers or other automated data processing equipment.

77 7. "Department" means the Department of Criminal Justice Services.

78 8. "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
79 means. The term does not include access to the information by officers or employees of a criminal
80 justice agency maintaining the information who have both a need and right to know the information.

81 9. "Law-enforcement officer" means any full-time or part-time employee of a police department or
82 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
83 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the
84 penal, traffic or highway laws of this Commonwealth, and shall include any special agent of the
85 Department of Alcoholic Beverage Control, any police agent appointed under the provisions of § 56-353,
86 any officer of the Virginia Marine Patrol, any game warden who is a full-time sworn member of the
87 enforcement division of the Department of Game and Inland Fisheries, any agent, investigator, or
88 inspector appointed under § 56-334 or any investigator who is a full-time sworn member of the security
89 division of the State Lottery Department. Part-time employees are compensated officers who are not
90 full-time employees as defined by the employing police department or sheriff's office. Full-time sworn
91 members of the enforcement division of the Department of Motor Vehicles meeting the Department of
92 Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers" when fulfilling
93 their duties pursuant to § 46.2-217.

94 10. "Conviction data" means information in the custody of any criminal justice agency relating to a
95 judgment of conviction, and the consequences arising therefrom, in any court.

96 § 16.1-227. Purpose and intent.

97 This law shall be construed liberally and as remedial in character, and the powers hereby conferred
98 are intended to be general to effect the beneficial purposes herein set forth. It is the intention of this law
99 that in all proceedings the welfare of the child and the family is , *the safety of the community and the*
100 *protection of the rights of victims* are the paramount ~~concern~~ *concerns* of the Commonwealth and to the
101 end that ~~this humane purpose~~ *these purposes* may be attained, the judge shall possess all necessary and
102 incidental powers and authority, whether legal or equitable in their nature.

103 This law shall be interpreted and construed so as to effectuate the following purposes:

104 1. To divert from or within the juvenile justice system, to the extent possible, consistent with the
105 protection of the public safety, those children who can be cared for or treated through alternative
106 programs;

107 2. To provide judicial procedures through which the provisions of this law are executed and enforced
108 and in which the parties are assured a fair hearing and their constitutional and other rights are
109 recognized and enforced;

110 3. To separate a child from such child's parents, guardian, legal custodian or other person standing in
111 loco parentis only when the child's welfare is endangered or it is in the interest of public safety and then
112 only after consideration of alternatives to out-of-home placement which afford effective protection to the
113 child, his family, and the community; and

114 4. To protect the community against those acts of its citizens, *both juveniles and adults*, which are
115 harmful to others and to reduce the incidence of delinquent behavior *and to hold offenders accountable*
116 *for their behaviors*.

117 § 16.1-228. Definitions.

118 When used in this chapter, unless the context otherwise requires:

119 "Abused or neglected child" means any child:

120 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
121 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than

accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person eighteen years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile" or "minor" means a person less than eighteen years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, and (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or town.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed

183 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has
184 been terminated under the provisions of § 16.1-269.6.

185 "Department" means the Department of Youth and Family Services and "Director" means the
186 administrative head in charge thereof or such of his assistants and subordinates as are designated by him
187 to discharge the duties imposed upon him under this law.

188 "Family abuse" means any act of violence, including any forceful detention, which results in physical
189 injury or places one in reasonable apprehension of serious bodily injury and which is committed by a
190 person against such person's family or household member.

191 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
192 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
193 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
194 grandparents and grandchildren who reside in the same home with the person, (iv) the person's
195 mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside
196 in the same home with the person, (v) any individual who has a child in common with the person,
197 whether or not the person and that individual have been married or have resided together at any time, or
198 (vi) any individual who cohabits or who, within the previous twelve months, cohabited with the person,
199 and any children of either of them then residing in the same home with the person.

200 "Foster care services" means the provision of a full range of casework, treatment and community
201 services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 or
202 in need of services as defined in this section and his family when the child (i) has been identified as
203 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through
204 an agreement between the local board of social services or a public agency designated by the
205 community policy and management team and the parents or guardians where legal custody remains with
206 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or
207 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board
208 pursuant to § 16.1-293.

209 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
210 chapter.

211 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
212 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding
213 cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the
214 transfer of a child to a juvenile facility.

215 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
216 court of each county or city.

217 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in
218 this chapter.

219 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to
220 have physical custody of the child, to determine and redetermine where and with whom he shall live,
221 the right and duty to protect, train and discipline him and to provide him with food, shelter, education
222 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal
223 status created by court order of joint custody as defined in § 20-107.2.

224 "Permanent foster care placement" means the place of residence in which a child resides and in
225 which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation
226 and agreement between the placing agency and the place of permanent foster care that the child shall
227 remain in the placement until he reaches the age of majority unless modified by court order or unless
228 removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of
229 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term
230 basis.

231 "Secure facility" or "detention home" means a local or regional or state public or private locked
232 residential facility which has construction fixtures designed to prevent escape and to restrict the
233 movement and activities of children held in lawful custody.

234 "Shelter care" means the temporary care of children in physically unrestricting facilities.

235 "State Board" means the State Board of Youth and Family Services.

236 "Status offender" means a child who commits an act prohibited by law which would not be criminal
237 if committed by an adult.

238 "Status offense" means an act prohibited by law which would not be an offense if committed by an
239 adult.

240 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
241 parent after the transfer of legal custody or guardianship of the person, including but not limited to the
242 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
243 for support.

244 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of

§ 16.1-269.1 when committed by a juvenile fourteen years of age or older.

§ 16.1-228. (Delayed effective date) Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person eighteen years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile" or "minor" means a person less than eighteen years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, and (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or habitually deserts or abandons his family or lawful custodian or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"The court" or the "family court" means the family court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, (ii) a violation of § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an

act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or town.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the family court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Youth and Family Services and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Family abuse" means any act of violence, including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed by a person against such person's family or household member.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, grandparents and grandchildren who reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous twelve months, cohabited with the person, and any children of either of them residing in the same home with the person.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the family court of each county or city.

"This law" or "the law" means the Family Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Youth and Family Services.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the

right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile fourteen years of age or older.

§ 16.1-241. Jurisdiction.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent; ~~except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6;~~

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall include conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was fourteen years of age or older at the time of the commission of the alleged offense and to consider and adjudicate any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall include conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was fourteen years of age or older at the time of the commission of the alleged offense and to consider and adjudicate any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed, terminated by nolle prosequi or reduced to lesser offenses not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been involuntarily terminated by court order if the child subsequently has been legally adopted, or (ii) who has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366 when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the

provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H hereof, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of this Commonwealth, (ii) his whereabouts is unknown, (iii) he cannot be consulted with promptness, reasonable under the circumstances or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or is otherwise before the court pursuant to subdivision A 4 of this section;

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services which are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law which causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried. For purposes of this subsection, "family or household member," as defined in § 16.1-228, shall also be construed to include parent and child, stepparent and stepchild, brothers and sisters, and grandparent and grandchild, regardless of whether such persons reside in the same home.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or § 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Youth and Family Services.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered

by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.1-248.6:1.

U. Petitions filed in connection with parental placement adoption consent hearings, pursuant to § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision 3 of subsection A or [~~subsections~~ subsection B, D,] M or R of this section.

§ 16.1-241. (Delayed effective date) Jurisdiction.

The judges of the family court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each family court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the family court or courts of the adjoining city or county over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent; ~~except where the jurisdiction of the family court has been terminated under the provisions of § 16.1-269.6;~~

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought;

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the family court shall include conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was fourteen years of age or older at the time of the commission of the alleged offense and to consider and adjudicate any matters ancillary thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the family court shall include conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was fourteen years of age or older at the time of the commission of the alleged offense and to consider and adjudicate any matters ancillary thereto. A determination by the family court following a preliminary hearing pursuant to Subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the family court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the family court determines to transfer the case, jurisdiction of the family court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed, terminated by nolle prosequi or reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the family court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the family court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate

interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been involuntarily terminated by court order if the child subsequently has been legally adopted, or (ii) who has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366 when the child who is the subject of the petition was conceived as a result of such violation. The authority of the family court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H hereof, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of this Commonwealth, (ii) his whereabouts is unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law pursuant to Chapter 5 (§ 20-61 et seq.) of Title 20.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;
2. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or is otherwise before the court pursuant to subdivision A 4 of this section;
3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services which are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis.

H. Judicial consent to apply for work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law which causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried. For purposes of this subsection, "family or household member," as defined in § 16.1-228, shall also be construed to include parent and child, stepparent and stepchild, brothers and sisters, and grandparent and grandchild, regardless of whether such persons reside in the same home.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or § 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Youth and Family Services.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered by a family court upon the filing of a certified copy of such order in the family court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Suits for divorce and for annulling or affirming marriage in accordance with Title 20.

T. Suits for separate maintenance.

U. Suits for equitable distribution based on a foreign decree in accordance with § 20-107.3.

V. Petitions for adoption.

W. Petitions for change of name when incident to suits for annulling or affirming marriage, divorce, or adoption or when ancillary to any action within the jurisdiction of the family court.

X. Petitions regarding records of birth pursuant to Chapter 7 (§ 32.1-249 et seq.) of Title 32.1.

Y. Judicial review of school board actions pursuant to § 22.1-87 and of hearing officer decisions pursuant to §§ 22.1-214 and 22.1-214.1.

Z. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

AA. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.1-248.6:1.

BB. Petitions filed in connection with parental placement adoption consent hearings, pursuant to § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision 3 of subsection A or [~~subsection~~ subsection B, D,] M or R of this section.

§ 16.1-248.1. Criteria for detention or shelter care.

A. A ~~child~~ *juvenile* taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such ~~child's juvenile's~~ parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such ~~child juvenile~~, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, a ~~child juvenile~~ may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the ~~child juvenile~~ committed the act alleged, and that at least one of the following conditions is met:

1. The ~~child juvenile~~ is alleged to have committed an act which would be a felony or Class 1 misdemeanor if committed by an adult, and there is clear and convincing evidence that:

a. *Considering the seriousness of the current offense or offenses and other pending charges, the seriousness of prior adjudicated offenses, the legal status of the juvenile and any aggravating and mitigating circumstances,* the release of the ~~child juvenile~~ constitutes an unreasonable danger to the person or property of others;

b. The release of the ~~child juvenile~~ would present a clear and substantial threat of serious harm to such ~~child's juvenile's~~ life or health; or

c. The ~~child juvenile~~ has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding twelve months.

2. The ~~child juvenile~~ has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The ~~child juvenile~~ is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such ~~child juvenile~~ may be detained for a period not to exceed that provided for in § 16.1-323 of this chapter while arrangements are made to return the ~~child juvenile~~ to the lawful custody of a parent, guardian or other authority in another state.

4. The ~~child juvenile~~ has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the ~~child juvenile~~ has committed a delinquent act, *or that the child* is in need of services or is in need of supervision; however, a child alleged to be in need of services or

675 in need of supervision may be detained for good cause pursuant to this subsection only until the next
676 day upon which the court sits within the county or city in which the charge against the child is pending,
677 and under no circumstances longer than seventy-two hours from the time he or she was taken into
678 custody.

679 B. Any ~~child~~ juvenile not meeting the criteria for placement in a secure facility shall be released to a
680 parent, guardian or other person willing and able to provide supervision and care under such conditions
681 as the judge, intake officer or magistrate may impose. However, a ~~child~~ juvenile may be placed in
682 shelter care if:

683 1. The ~~child~~ juvenile is eligible for placement in a secure facility;

684 2. The ~~child~~ juvenile has failed to adhere to the directions of the court, intake officer or magistrate
685 while on conditional release;

686 3. The ~~child's~~ juvenile's parent, guardian or other person able to provide supervision cannot be
687 reached within a reasonable time;

688 4. The ~~child~~ juvenile does not consent to return home;

689 5. Neither the ~~child's~~ juvenile's parent or guardian nor any other person able to provide proper
690 supervision can arrive to assume custody within a reasonable time; or

691 6. The ~~child's~~ juvenile's parent or guardian refuses to permit the ~~child~~ juvenile to return home and
692 no relative or other person willing and able to provide proper supervision and care can be located within
693 a reasonable time.

694 C. The criteria for continuing the ~~child~~ juvenile in detention or shelter care as set forth in this section
695 shall govern the decisions of all persons involved in determining whether the continued detention or
696 shelter care is warranted pending court disposition. Such criteria shall be supported by clear and
697 convincing evidence in support of the decision not to release the ~~child~~ juvenile.

698 D. Nothing in this section shall be construed to deprive the court of its power to punish a ~~child~~
699 juvenile summarily for contempt for acts set forth in § 18.2-456, other than acts of disobedience of the
700 court's dispositional order which are committed outside the presence of the court.

701 E. A detention order may be issued pursuant to subdivision 2 of subsection A by the committing
702 court or by the court in the jurisdiction from which the ~~child~~ juvenile fled or where he was taken into
703 custody.

704 § 16.1-248.2. *Mental health screening for certain juveniles.*

705 *Whenever a juvenile is placed in a secure facility pursuant to § 16.1-248.1, the staff of the facility*
706 *shall gather such information from the juvenile and the probation officer as is reasonably available and*
707 *deemed necessary by the facility staff. As part of the intake procedures at each such facility, the staff*
708 *shall ascertain the juvenile's need for a mental health assessment. If it is determined that the juvenile*
709 *needs such an assessment, arrangements shall be made and the assessment shall take place within*
710 *twenty-four hours of such determination.*

711 § 16.1-249. *Places of confinement for juveniles.*

712 A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such
713 juvenile may be detained, pending a court hearing, in the following places:

714 1. An approved foster home or a home otherwise authorized by law to provide such care;

715 2. A facility operated by a licensed child welfare agency;

716 3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the
717 Department;

718 4. Any other suitable place designated by the court and approved by the Department.

719 5. *To the extent permitted by federal law, a separate juvenile detention facility located upon the site*
720 *of an adult regional jail facility established by any county, city or any combination thereof constructed*
721 *after 1994, approved by the Department of Youth and Family Services and certified by the Board of*
722 *Corrections for the holding and detention of juveniles.*

723 B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult
724 offenders or persons charged with crime except as provided in subsection D, E, F or G of this section.

725 C. *Except for placement under subsection A 5, the official in charge of a jail or other facility for the*
726 *detention of adult offenders or persons charged with crime shall inform the court immediately when a*
727 *juvenile who is or appears to be under the age of eighteen years is received at the facility, and shall*
728 *deliver him to the court upon request, or transfer him to a detention facility designated by the court.*

729 D. When a case is transferred to the circuit court in accordance with the provisions of *subsection A*
730 *of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in*
731 *accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the*
732 *district court, or when the district court has certified a charge to the grand jury pursuant to subsection*
733 *B or C of § 16.1-269.1, the juvenile, if in confinement, may be transferred to a jail or other facility for*
734 *the detention of adults and need no longer be entirely separate and removed from adults.*

735 E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security
736 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 or, if the child is fourteen years of age or older, a jail or other facility for the detention of 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 Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile 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 facility for the detention of 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 temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward 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 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 based on the requirements set out in this subsection. *The Department shall assist localities or combinations of localities in establishing facilities which conform to the requirements of this subsection.*

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 entirely separate and removed 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 (i) in a juvenile facility only for a violation of the terms and conditions of release from a ~~learning~~ juvenile correctional center or (ii) in an adult facility.

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

§ 16.1-255. Limitation on issuance of detention orders for juveniles.

No detention order shall be issued for any ~~child~~ juvenile except when authorized by the judge or "intake officer" of a juvenile court *or by a magistrate as provided in § 16.1-256.*

In matters involving the issuance of detention orders, each state or local court service unit shall ensure the capability of a prompt response by an intake officer who is either on duty or on call.

§ 16.1-255. (Delayed effective date) Limitation on issuance of detention orders for juveniles.

No detention order shall be issued for any ~~child~~ juvenile except when authorized by the judge or "intake officer" of a family court *or by a magistrate as provided in § 16.1-256.*

In matters involving the issuance of detention orders, each state or local court service unit shall ensure the capability of a prompt response by an intake officer who is either on duty or on call.

§ 16.1-256. Limitations as to issuance of warrants for juveniles; detention orders.

No warrant of arrest shall be issued for any ~~child~~ juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer; or

2. ~~{Repealed.}~~

3. Upon a finding of probable cause to believe that the child is in need of services or is a delinquent, when (i) the court is not open; *or* (ii) the judge and the intake officer of the juvenile and domestic relations district court are not reasonably available ~~and (iii) the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied.~~ For purposes of this section, the phrase "not reasonably available" ~~shall mean~~ means that ~~neither the judge or nor the~~ intake officer of the juvenile and domestic relations district court ~~could not be reached after the appearance by the juvenile before a magistrate or could not arrive within one hour after he was contacted~~ is physically present to process the case and the physical presence of either is not imminent.

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the juvenile court.

§ 16.1-256. (Delayed effective date) Limitations as to issuance of warrants for juveniles; detention orders.

No warrant of arrest shall be issued for any ~~child~~ juvenile by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer; or

2. ~~{Repealed.}~~

3. Upon a finding of probable cause to believe that the child is in need of services or is a delinquent, when (i) the court is not open; *or* (ii) the judge and the intake officer of the family court are not reasonably available and (iii) ~~the criteria for detention or shelter care set forth in § 16.1-248.1 have been~~ satisfied. For purposes of this section, the phrase "not reasonably available" shall ~~mean~~ *means* that ~~neither the judge or nor the intake officer of the family court could not be reached after the appearance by the juvenile before a magistrate or could not arrive within one hour after he was contacted is physically present to process the case and the physical presence of either is not imminent.~~

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the family court.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection ~~F~~ *H* of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion together with notice of the court date to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

B 1. When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

However, an intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the child (i) is not alleged to have committed a violent juvenile felony and (ii) has not previously been the subject of a complaint alleging that he is in need of supervision or delinquent. A petition alleging that the juvenile has committed a violent juvenile felony or that a juvenile who had previously been the subject of a complaint alleging that he was in need of supervision or delinquent is in need of supervision or a petition alleging that a juvenile is in need of supervision or delinquent shall be filed with the court if that juvenile has previously been the subject of a complaint alleging that he was in need of supervision or delinquent.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, is in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile which may include a requirement for restitution and the performance of community service based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis, and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,

visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, or (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or ~~child~~ *juvenile* or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.

~~C.~~ *D.* Prior to the filing of any petition alleging that a *juvenile child* is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the *juvenile child* alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services, may he permit the petition to be filed.

~~D.~~ *E.* If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention ~~or shelter care~~ set forth in § 16.1-248.1 have been satisfied, the child may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 32 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

~~E.~~ *F.* The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

~~E1.~~ *G.* After a petition is filed alleging that a juvenile committed an act which would be a crime if committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of the filing of the petition and the nature of the offense to the superintendent of the school division in which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

8. *Burglary and related offenses*, pursuant to §§ 18.2-89 through 18.2-93.

Promptly after filing a petition the intake officer shall also mail notice, by first class mail, to the superintendent. The failure to provide information regarding the school in which the juvenile who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

~~F.~~ *H.* The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may

921 be located, proceed on a summons in lieu of filing a petition.

922 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision
923 H of § 16.1-241.

924 3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other
925 alcohol-related offense, provided the ~~child~~ juvenile is released to the custody of a parent or legal
926 guardian pending the initial court date. The officer releasing a ~~child~~ juvenile to the custody of a parent
927 or legal guardian shall issue a summons to the ~~child~~ juvenile and shall also issue a summons requiring
928 the parent or legal guardian to appear before the court with the ~~child~~ juvenile. Disposition of the charge
929 shall be in the manner provided in § 16.1-278.8 or § 16.1-278.9. If the ~~child~~ juvenile so charged with a
930 violation of § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both
931 blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2,
932 the provisions of these sections shall be followed except that the magistrate shall authorize execution of
933 the warrant as a summons. The summons shall be served on a parent or legal guardian and the ~~child~~
934 juvenile, and a copy of the summons shall be forwarded to the court in which the violation of
935 § 18.2-266 or § 29.1-738 is to be tried.

936 4. In the case of offenses which, if committed by an adult would be punishable as Class 3 or Class 4
937 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237
938 on a summons issued by the officer investigating the violation in the same manner as provided by law
939 for adults provided that notice of the summons to appear is mailed by the investigating officer within
940 five days of the issuance of the summons to a parent or legal guardian of the juvenile.

941 G. I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court
942 of the jurisdiction granted it in § 16.1-241.

943 § 16.1-260. (Delayed effective date) Intake; petition; investigation

944 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
945 a petition, except as provided in subsection F H of this section and in § 16.1-259. The form and content
946 of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support
947 services from the Department of Social Services prior to filing a petition seeking support for a ~~child~~
948 juvenile. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility
949 of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a
950 petition on his own motion with the clerk, (ii) the Department of Social Services may file support
951 petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his
952 client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in
953 need of services, in need of supervision or delinquent. In addition, all cases for divorce, annulment or
954 affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption,
955 change of name, amendment of a record of birth and judicial review of school board actions and of
956 hearing officer decisions shall be filed directly with the clerk. Complaints alleging abuse or neglect of a
957 child shall be referred initially to the local department of public welfare or social services in accordance
958 with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent
959 pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the
960 petition or motion is filed shall inquire whether the petitioner is receiving child support services or
961 public assistance. No individual who is receiving support services or public assistance shall be denied
962 the right to file a petition or motion to establish, modify or enforce an order for support of a child. If
963 the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance
964 of process, shall forward a copy of the petition or motion together with notice of the court date to the
965 Division of Child Support Enforcement.

966 B. *The appearance of a child before an intake officer may be by (i) personal appearance before the*
967 *intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic*
968 *video and audio communication is used, an intake officer may exercise all powers conferred by law. All*
969 *communications and proceedings shall be conducted in the same manner as if the appearance were in*
970 *person, and any documents filed may be transmitted by facsimile process. The facsimile may be served*
971 *or executed by the officer or person to whom sent, and returned in the same manner, and with the same*
972 *force, effect, authority, and liability as an original document. All signatures thereon shall be treated as*
973 *original signatures. Any two-way electronic video and audio communication system used for an*
974 *appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.*

975 B1. When the court service unit of any court receives a complaint alleging facts which may be
976 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake
977 officer, may proceed informally to make such adjustment as is practicable without the filing of a petition
978 or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
979 establish probable cause for the issuance of the petition.

980 *However, an intake officer may proceed informally on a complaint alleging a child is in need of*
981 *services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a*
982 *violent juvenile felony and (ii) has not previously been the subject of a complaint alleging that he is in*

need of supervision or delinquent. A petition alleging that the juvenile has committed a violent juvenile felony or that a juvenile who had previously been the subject of a complaint alleging that he was in need of supervision or delinquent shall be filed with the court if that juvenile has previously been the subject of a complaint alleging that he was in need of supervision or delinquent.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile which may include a requirement for restitution and the performance of community service based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis, and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support or separate maintenance for any person in violation of law, or (iii) a ~~child~~ juvenile or such ~~child's~~ juvenile's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or ~~child~~ juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.

D. Prior to the filing of any petition alleging that a ~~juvenile~~ child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the ~~juvenile~~ child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services, may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense which if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the family court. The warrant shall be delivered forthwith to the family court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the ~~child~~ juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the family court of a warrant issued pursuant to subdivision 3 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

~~E4.~~ G. After a petition is filed alleging that a juvenile committed an act which would be a crime if committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of the filing of the petition and the nature of the offense to the superintendent of the school division in which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of Chapter 7 of Title 18.2;

2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;

4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

8. Burglary *and related offenses*, pursuant to §§ 18.2-89 *through 18.2-93*.

Promptly after filing a petition the intake officer shall also mail notice, by first class mail, to the superintendent. The failure to provide information regarding the school in which the juvenile who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

~~F. H.~~ The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other alcohol-related offense, provided the ~~child~~ juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a ~~child~~ juvenile to the custody of a parent or legal guardian shall issue a summons to the ~~child~~ juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the ~~child~~ juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or § 16.1-278.9. If the ~~child~~ juvenile so charged with a violation of § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the ~~child~~ juvenile, and a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or § 29.1-738 is to be tried.

4. In cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, and judicial review of school board actions and of hearing officer decisions.

5. In the case of offenses which, if committed by an adult would be punishable as Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

~~G. I.~~ Failure to comply with the procedures set forth in this section shall not divest the family court of the jurisdiction granted it in § 16.1-241.

§ 16.1-261. Statements made at intake or mental health screening.

Statements made by a child to the intake officer or probation officer during the intake process *or mental health screening pursuant to § 16.1-248.2* and prior to a hearing on the merits of the petition filed against the child, shall not be admissible at any stage of the proceedings.

§ 16.1-263. Summonses.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the ~~child~~ juvenile, if the ~~child~~ juvenile is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not the parent of the ~~child~~ juvenile in question, the parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. *The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, the parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for maintenance and treatment of the juvenile pursuant to § 16.1-290.* Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing the parents, guardian or other custodian having the custody or control of the ~~child~~ juvenile to bring the ~~child~~ juvenile to the hearing.

D. A party, other than the ~~child~~ juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

§ 16.1-263. (Delayed effective date) Process.

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the ~~child~~ juvenile, if the ~~child~~ juvenile is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not the parent of the ~~child~~ juvenile in question, the parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. *The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, the parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for maintenance and treatment of the juvenile pursuant to § 16.1-290.* A copy of the petition shall accompany each summons for the initial proceedings. Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing the parents, guardian or other custodian having the custody or control of the ~~child~~ juvenile to bring the ~~child~~ juvenile to the hearing.

D. A party, other than the ~~child~~ juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

F. For all cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption, change of name, amendment of a record of birth, and judicial review of school board actions and of hearing officer decisions, process shall be governed by the Rules of the Supreme Court or statute, as appropriate.

§ 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.

A. *Except as provided in subsections B and C*, if a juvenile fourteen years of age or older *at the time of an alleged offense* is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;

2. The juvenile court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;

3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and

4. ~~Except as provided in subsection B~~, The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the following factors:

a. The juvenile's age;

b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense

was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than twenty years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;

d. The appropriateness and availability of the services and dispositional alternatives in both the criminal justice and juvenile justice systems for dealing with the juvenile's problems;

e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to ~~learning juvenile~~ *correctional* centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;

g. The extent, if any, of the juvenile's degree of mental retardation or mental illness;

h. The juvenile's school record and education;

i. The juvenile's mental and emotional maturity; and

j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision A 4 of § 16.1-269.1.

B. ~~The court may hold a transfer hearing and certify the juvenile for transfer to the appropriate circuit court without making the finding required by subdivision A 4 if~~ *The juvenile court shall conduct a preliminary hearing whenever* a juvenile fourteen years of age or older is charged with:

1. A Class 1 or 2 felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 or, if the juvenile is sixteen years of age or older, a Class 3 felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 for: (i) murder under Article 1; (ii) mob-related felony under Article 2; (iii) kidnapping or abduction under Article 3; or (iv) assault or bodily wounding under Article 4; or

2. ~~Any unclassified felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 which carries a maximum penalty of imprisonment for life or a term of imprisonment of forty years if committed by an adult. a Class 1 felony (§ 18.2-31), murder in violation of § 18.2-32 or § 18.2-40, or aggravated malicious wounding (§ 18.2-51.2).~~

C. *The juvenile court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1, rape § 18.2-61, forcible sodomy § 18.2-67.1 or object sexual penetration § 18.2-67.2, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. If the attorney for the Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he may proceed as provided in subsection A.*

D. *Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the juvenile court shall certify the charge for the violent juvenile felony, and all ancillary charges, to the grand jury. Return of an indictment shall divest the juvenile court of jurisdiction as to those charges.*

If the court does not find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek an indictment after a preliminary hearing in juvenile court.

If the court finds that the juvenile was not fourteen years of age or older at the time of the alleged commission of the offense or that the conditions specified in subdivision 1, 2, or 3 of subsection A have not been met, the case shall proceed as otherwise provided for by law.

E. *An indictment in the circuit court cures any procedural error or defect in any proceeding held in the juvenile court. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.*

§ 16.1-269.1. (Delayed effective date) Trial in circuit court; preliminary hearing, direct indictment; remand.

A. *Except as provided in subsections B and C, if a juvenile fourteen years of age or older at the time*

of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;

2. The family court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;

3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and

4. Except as provided in subsection B, The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the family court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the family court, the court shall consider, but not be limited to, the following factors:

a. The juvenile's age;

b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than twenty years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;

d. The appropriateness and availability of the services and dispositional alternatives in both the criminal justice and juvenile justice systems for dealing with the juvenile's problems;

e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with family or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to learning juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;

g. The extent, if any, of the juvenile's degree of mental retardation or mental illness;

h. The juvenile's school record and education;

i. The juvenile's mental and emotional physical maturity; and

j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision A 4 of § 16.1-269.1.

B. The court may hold a transfer hearing and certify the juvenile for transfer to the appropriate circuit court without making the finding required by subdivision A 4 if The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with:

1. A Class 1 or 2 felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 or, if the juvenile is sixteen years of age or older, a Class 3 felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 for: (i) murder under Article 1; (ii) mob-related felony under Article 2; (iii) kidnapping or abduction under Article 3; or (iv) assault or bodily wounding under Article 4; or

2. Any unclassified felony violation of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 which carries a maximum penalty of imprisonment for life or a term of imprisonment of forty years if committed by an adult; a Class 1 felony (§ 18.2-31), murder in violation of § 18.2-32 or § 18.2-40 or aggravated malicious wounding in violation of § 18.2-51.2.

C. The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of

§ 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2 provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. If the attorney for the Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he may proceed as provided in subsection A.

D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the family court shall certify the charge, and all ancillary charges, to the grand jury. Certification shall divest the family court of jurisdiction as to the charge and any ancillary charges.

If the court does not find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in the petition or if the petition is terminated by dismissal in the family court or by nolle prosequi in the family court, the attorney for the Commonwealth may seek a direct indictment in the circuit court.

If the court finds that the juvenile was not fourteen years of age or older at the time of the alleged commission of the offense or that the conditions specified in subdivision 1, 2, or 3 of subsection A have not been met, the case shall proceed as otherwise provided for by law.

E. An indictment in the circuit court cures any error or defect in any proceeding held in the family court. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

§ 16.1-269.3. Retention by juvenile court; appeal.

If ~~the~~ a case is not certified or transferred following a probable cause or transfer hearing in the juvenile court, the judge who conducted the hearing shall not, over the objection of any interested party, preside at the adjudicatory hearing on the petition, but rather it shall be presided over by another judge of that court. If the attorney for the Commonwealth deems it to be in the public interest, and the juvenile is fourteen years of age or older and is charged with an offense which, if committed by an adult, would be punishable by death or confinement in a state correctional facility for life or a maximum period of twenty years or more, he may, within ten days after the juvenile court's final decision to retain the case in accordance with subsection A of § 16.1-269.1, file a notice of appeal of the decision to the appropriate circuit court. A copy of such notice shall be furnished at the same time to the counsel for the juvenile.

§ 16.1-269.3. (Delayed effective date) Retention of case by family court.; appeal.

If ~~the~~ a case is not transferred following a probable cause or transfer hearing in the family court, the judge who conducted the hearing shall not, over the objection of any interested party, preside at the adjudicatory hearing on the petition, but rather it shall be presided over by another judge of that court. If the attorney for the Commonwealth deems it to be in the public interest, and the juvenile is fourteen years of age or older and is charged with an offense which, if committed by an adult, would be punishable by death or confinement in a state correctional facility for life or a maximum period of twenty years or more, he may, within ten days after the family court's final decision to retain the case, file a notice of appeal of the decision to the appropriate circuit court. A copy of such notice shall be furnished at the same time to the counsel for the juvenile.

§ 16.1-269.4. Transfer to circuit court; appeal by juvenile.

If the juvenile court transfers the case pursuant to subsection A of § 16.1-269.1, the juvenile may, within ten days after the juvenile court's final decision, file a notice of appeal of the decision to the appropriate circuit court. A copy of the notice shall be furnished at the same time to the attorney for the Commonwealth.

§ 16.1-269.4. (Delayed effective date) Transfer to circuit court; appeal by juvenile.

If the family court transfers the case pursuant to subsection A of § 16.1-269.1, the juvenile may, within ten days after the family court's final decision, file a notice of appeal of the decision to the appropriate circuit court. A copy of the notice shall be furnished at the same time to the attorney for the Commonwealth.

§ 16.1-269.6. Circuit court hearing; jury; termination of juvenile court jurisdiction; objections and appeals.

A. Within seven days after receipt of notice of an appeal from the transfer decision pursuant to subsection A of § 16.1-269.1, by either the attorney for the Commonwealth or the juvenile, or if an appeal to such a decision to transfer is not noted, upon expiration of the time in which to note such an appeal, the clerk of the court shall forward to the circuit court all papers connected with the case, including any report required by subsection B of § 16.1-269.2, as well as a written court order setting forth the reasons for the juvenile court's decision. The clerk shall forward copies of the order to the attorney for the Commonwealth and other counsel of record.

B. The circuit court shall, within a reasonable time after receipt of the case from the juvenile court pursuant to subsection A of § 16.1-269.1, (i) examine all such papers, reports and orders; (ii) if either the juvenile or the attorney for the Commonwealth has appealed the transfer decision, examine all such papers, reports and orders and conduct a hearing to take further evidence on the issue of transfer, to determine if there has been substantial compliance with subsection A of § 16.1-269.1, but without

redetermining whether the juvenile court had sufficient evidence to find probable cause; and ~~(iii)~~ (ii) enter an order either remanding the case to the juvenile court or advising the attorney for the Commonwealth that he may seek an indictment. Upon advising the attorney for the Commonwealth that he may seek an indictment, the circuit court shall issue an order transferring the juvenile from the juvenile detention facility to an appropriate local correctional facility where the juvenile need no longer be entirely separate and removed from adults, unless, upon motion of counsel, good cause is shown for placement of the juvenile pursuant to the limitations of subdivision E (i), (ii), and (iii) of § 16.1-249. *However, in cases where a charge has been certified by the juvenile court to the grand jury pursuant to subsection B or C of § 16.1-269.1, the attorney for the Commonwealth may seek an indictment upon such charge without obtaining an order of the circuit court advising him that he may do so.*

C. The circuit court order advising the attorney for the Commonwealth that he may seek an indictment shall divest the juvenile court of its jurisdiction over the case as well as the juvenile court's jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme giving rise to the charge for which the juvenile has been transferred. In addition, upon conviction of the juvenile following transfer and trial as an adult, the circuit court shall issue an order terminating the juvenile court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been committed by such juvenile and with respect to any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction. Upon receipt of the order terminating the juvenile court's jurisdiction over the juvenile, the clerk of the juvenile court shall forward any pending petitions of delinquency for proceedings in the appropriate general district court.

D. The judge of the circuit court who reviewed the case after receipt from the juvenile court shall not, over the objection of any interested party, preside over the trial of such charge or charges.

E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not made before arraignment.

F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included as applying to the provisions of § 19.2-243.

§ 16.1-269.6. (Delayed effective date) Circuit court hearing; termination of family court jurisdiction; objections and appeals.

A. Within seven days after receipt of notice of an appeal from the transfer decision *pursuant to subsection A of § 16.1-269.1* by either the attorney for the Commonwealth or the juvenile, or if an appeal to *such* a decision to transfer is not noted, upon expiration of the time in which to note appeal, the clerk of the family court shall forward to the circuit court all papers connected with the case, including any report required by subsection B of § 16.1-269.2 as well as a written court order setting forth the reasons for the family court's decision. The clerk shall forward copies of the order to the attorney for the Commonwealth and other counsel of record.

B. The circuit court shall, within a reasonable time after receipt of the case from the family court *pursuant to subsection A of § 16.1-269.1*, (i) ~~examine all such papers, reports and orders~~; (ii) if either the juvenile or the attorney for the Commonwealth has appealed the transfer decision, *examine all such papers, reports and orders* and conduct a hearing to take further evidence on the issue of transfer, to determine if there has been substantial compliance with *subsection A of § 16.1-269.1*, but without redetermining whether the family court had sufficient evidence to find probable cause; and ~~(iii)~~ (ii) enter an order either remanding the case to the family court or advising the attorney for the Commonwealth that he may seek an indictment. Upon advising the attorney for the Commonwealth that he may seek an indictment, the circuit court shall issue an order transferring the juvenile from the juvenile detention facility to an appropriate local correctional facility where the juvenile need no longer be entirely separate and removed from adults, unless, upon motion of counsel, good cause is shown for placement of the juvenile pursuant to the limitations of subdivision E (i), (ii), and (iii) of § 16.1-249. *However, in cases where a charge has been certified by the family court to the grand jury pursuant to subsection B or C of § 16.1-269.1, the attorney for the Commonwealth may seek an indictment upon such charge without obtaining an order of the circuit court advising him that he may do so.*

C. The circuit court order advising the attorney for the Commonwealth that he may seek an indictment shall divest the family court of its jurisdiction over the case as well as the family court's jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme giving rise to the charge for which the juvenile has been transferred. In addition, upon conviction of the juvenile following transfer and trial as an adult, the circuit court shall issue an order terminating the family court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been committed by such juvenile and with respect to any pending allegations of delinquency which have not been disposed of by the family court at the time of the criminal conviction. Upon receipt of the order terminating the family court's jurisdiction over the juvenile, the clerk of the family court shall forward any pending petitions of delinquency for proceedings in the appropriate general district court.

D. The judge of the circuit court who reviewed the case after receipt from the family court shall not, over the objection of any interested party, preside over the trial of such charge or charges.

E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not made before arraignment.

F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included as applying to the provisions of § 19.2-243.

§ 16.1-272. Power of circuit court over juvenile offender.

A. ~~In the hearing and disposition of felony cases properly before a circuit court having criminal jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a trial by jury on the issue of guilt or innocence and upon a finding of guilty, In any case in which a juvenile is indicted and the matter is to be tried in the circuit court, the offense for which he is indicted and all ancillary charges shall be tried in the same manner as provided for the trial of adults, except as otherwise provided with regard to sentencing. Upon a finding of guilty of any charge other than capital murder, the court shall fix the sentence without the intervention of a jury.~~

If a juvenile is convicted of a violent juvenile felony, the sentence for that offense and for all ancillary charges shall be fixed in the same manner as provided for adults, but the sentence may be suspended conditioned upon successful completion of the terms and conditions imposed upon a disposition as a delinquency case in a district court. If the juvenile is convicted of any other felony, the court may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this law chapter for the hearing and disposition of cases in the juvenile court, including, but not limited to, commitment under § 16.1-285.1. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court shall deal with the juvenile in the manner prescribed by law for the disposition of a delinquency case in the district court.

B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile court and places the ~~child~~ juvenile on probation, the ~~child~~ juvenile may be supervised by a juvenile probation officer.

C. Whether the court sentences and commits the ~~child~~ juvenile as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender Registry established pursuant to § 19.2-390.1.

§ 16.1-272. (Delayed effective date) Power of circuit court over juvenile offender.

A. ~~In the hearing and disposition of felony cases properly before a circuit court having criminal jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a trial by jury on the issue of guilt or innocence and upon a finding of guilty, In any case in which a juvenile is indicted and the matter is to be tried in the circuit court, the offense for which he is indicted and all ancillary charges shall be tried in the same manner as provided for the trial of adults, except as otherwise provided with regard to sentencing. Upon a finding of guilty of any charge other than capital murder, the court shall fix the sentence without the intervention of a jury.~~

If a juvenile is convicted of a violent juvenile felony, the sentence for that offense and for all ancillary charges shall be fixed in the same manner as provided for adults, but the sentence may be suspended conditioned upon successful completion of the terms and conditions imposed upon a disposition as a delinquency case in a district court. If the juvenile is convicted of any other felony, the court may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this law chapter for the hearing and disposition of cases in the family court, including, but not limited to, commitment under § 16.1-285.1. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court shall deal with the juvenile in the manner prescribed by law for the disposition of a delinquent case in the juvenile court.

B. If the circuit court decides to deal with the juvenile in the same manner as a case in the family court and places the ~~child~~ juvenile on probation, the ~~child~~ juvenile may be supervised by a juvenile probation officer of the family court.

C. Whether the court sentences and commits the ~~child~~ juvenile as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender Registry established pursuant to § 19.2-390.1.

§ 16.1-274.1. Admission of evidence of juvenile's age.

In any delinquency proceeding in a district court or circuit court where a juvenile is alleged to have committed a delinquent act, the Commonwealth shall be permitted to introduce evidence establishing the age of the juvenile who is the subject of the delinquency petition at any time prior to adjudication of the case.

§ 16.1-278.8. Delinquent juveniles.

If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. *Defer disposition and place the juvenile in the temporary custody of the Department to attend a [boot camp Program and no less than six months of intensive aftercare] established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for commitment to the Department, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of an offense for which transfer for trial in the circuit court would be authorized pursuant to subsection B or C of § 16.1-269.1, (iii) has not previously been committed to and received by the Department, (iv) has not previously attended a [boot camp Program] . Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;*

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe, which may include, but are not limited to, compliance with any alternative education plan prepared pursuant to § 22.1-277.1;

8. Impose a fine not to exceed \$500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order which identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

1536 The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a
1537 driver's license until such time as is stipulated in the court order or until notification by the court of
1538 withdrawal of the order imposing the curfew;

1539 10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual
1540 damages or loss caused by the offense for which the juvenile was found to be delinquent;

1541 11. Require the juvenile to participate in a public service project under such conditions as the court
1542 prescribes;

1543 12. In case of traffic violations, impose only those penalties which are authorized to be imposed on
1544 adults for such violations. However, for those violations punishable by confinement if committed by an
1545 adult, confinement shall be imposed only as authorized by this title;

1546 13. Transfer legal custody to any of the following:

1547 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
1548 care for the juvenile;

1549 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
1550 by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a
1551 delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the
1552 approval of the Director; or

1553 c. The local board of public welfare or social services of the county or city in which the court has
1554 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the
1555 juvenile has residence if other than the county or city in which the court has jurisdiction. The board
1556 shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the
1557 pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in
1558 which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a
1559 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge
1560 entering the placement order describes the emergency and the need for such temporary placement in the
1561 order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of
1562 public welfare or social services in the Commonwealth when such local board consents to the
1563 commitment. The board to which the juvenile is committed shall have the final authority to determine
1564 the appropriate placement for the juvenile. Any order authorizing removal from the home and
1565 transferring legal custody of a juvenile to a local board of public welfare or social services as provided
1566 in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been
1567 made to prevent removal and that continued placement in the home would be contrary to the welfare of
1568 the juvenile, and the order shall so state;

1569 14. Commit the juvenile to the Department of Youth and Family Services, but only if he is older
1570 than ten years of age and the current offense is (i) an offense which would be a felony if committed by
1571 an adult or (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the
1572 juvenile has previously been found to be delinquent based on an offense which would be either a felony
1573 or Class 1 misdemeanor if committed by an adult;

1574 15. Impose the penalty authorized by § 16.1-284;

1575 16. Impose the penalty authorized by § 16.1-284.1;

1576 17. Impose the penalty authorized by § 16.1-285.1; or

1577 18. Impose the penalty authorized by § 16.1-278.9.

1578 § 16.1-278.8. (Delayed effective date) Delinquent juveniles.

1579 If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood
1580 or breath test in violation of § 18.2-268.2 or a similar ordinance, the family court or the circuit court
1581 may make any of the following orders of disposition for his supervision, care and rehabilitation:

1582 1. Enter an order pursuant to the provisions of § 16.1-278;

1583 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
1584 court may order with respect to the juvenile and his parent;

1585 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such
1586 treatment or be subject to such conditions and limitations as the court may order and as are designed for
1587 the rehabilitation of the juvenile and his parent;

1588 4. Defer disposition for a period of time not to exceed twelve months, after which time the charge
1589 may be dismissed by the judge if the juvenile exhibits good behavior during the period for which
1590 disposition is deferred;

1591 4a. *Defer disposition and place the juvenile in the temporary custody of the Department to attend a [*
1592 *boot camp Program and no less than six months of intensive aftercare] established pursuant to § 66-13*
1593 *provided the juvenile (i) is otherwise eligible for commitment to the Department, (ii) has not previously*
1594 *been and is not currently being adjudicated delinquent or found guilty of an offense for which transfer*
1595 *for trial in the circuit court would be authorized pursuant to subsection B or C of § 16.1-269.1, (iii) has*
1596 *not previously [been committed to the Department or] attended a [boot camp Program] , and (iv)*
1597 *has not previously been committed to and received by the Department. Upon the juvenile's withdrawal,*

removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe, which may include, but are not limited to, compliance with any alternative education plan prepared pursuant to § 22.1-277.1;

8. Impose a fine not to exceed \$500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order which identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties which are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a

1659 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge
1660 entering the placement order describes the emergency and the need for such temporary placement in the
1661 order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of
1662 public welfare or social services in the Commonwealth when such local board consents to the
1663 commitment. The board to which the juvenile is committed shall have the final authority to determine
1664 the appropriate placement for the juvenile. Any order authorizing removal from the home and
1665 transferring legal custody of a juvenile to a local board of public welfare or social services as provided
1666 in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been
1667 made to prevent removal and that continued placement in the home would be contrary to the welfare of
1668 the juvenile, and the order shall so state;

1669 14. Commit the juvenile to the Department of Youth and Family Services, but only if he is older
1670 than ten years of age and the current offense is (i) an offense which would be a felony if committed by
1671 an adult or (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the
1672 juvenile has previously been found to be delinquent based on an offense which would be either a felony
1673 or Class 1 misdemeanor if committed by an adult;

1674 15. Impose the penalty authorized by § 16.1-284;

1675 16. Impose the penalty authorized by § 16.1-284.1;

1676 17. Impose the penalty authorized by § 16.1-285.1; or

1677 18. Impose the penalty authorized by § 16.1-278.9.

1678 § 16.1-284. When adult sentenced for juvenile offense.

1679 Until June 30, 1986, if a child fifteen years of age or older is charged with an offense which if
1680 committed by an adult would be a felony and the court after receipt of a social history compiled
1681 pursuant to § 16.1-273 for this case or a prior case which was adjudicated within twelve months from
1682 the adjudication in this case finds that (i) such child is not, in the opinion of the court, amenable to
1683 treatment or rehabilitation as a juvenile through available facilities, considering such factors as the nature
1684 of the present offense or the nature of the child's prior delinquency record, the nature of the past
1685 treatment efforts and the nature of the child's response to past treatment efforts and (ii) the interests of
1686 the community require that the child be placed under legal restraint or discipline, then the court, in such
1687 cases, may impose the penalties which are authorized to be imposed on adults for such violations, not to
1688 exceed twelve months in jail for a single offense or multiple offenses and subject to the provisions of
1689 § 16.1-249 B (i), (ii) and (iii). After June 30, 1986, such penalties may be imposed only in the case of
1690 an When the juvenile court sentences an adult who has committed, before attaining the age of eighteen,
1691 an offense which would be a crime if committed by an adult, the court may impose the penalties which
1692 are authorized to be imposed on adults for such violations, not to exceed the punishment for a Class 1
1693 misdemeanor for a single offense or multiple offenses.

1694 § 16.1-284.1. Placement in secure local facility.

1695 A. If a child juvenile fourteen years of age or older is found to have committed an offense which if
1696 committed by an adult would be punishable by confinement in a state or local correctional facility as
1697 defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled pursuant to
1698 § 16.1-273 that the child juvenile has not previously been found guilty of a delinquent act within the
1699 preceding twelve months, (ii) that the interests of the child juvenile and the community require that the
1700 child juvenile be placed under legal restraint or discipline, and (iii) that other placements authorized by
1701 this title will not serve the best interests of the child juvenile, then the court may order the child juvenile
1702 confined in a detention home or other secure facility for juveniles for a period not to exceed thirty
1703 calendar days from the date the order is entered, inclusive of time served in a detention home or other
1704 secure facility, for a single offense or multiple offenses.

1705 B. If a child juvenile fourteen years of age or older is found to have committed an offense which if
1706 committed by an adult would be punishable by confinement in a state or local correctional facility as
1707 defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled within the
1708 immediately preceding twelve months pursuant to § 16.1-273 that the child juvenile has been adjudged a
1709 delinquent within the immediately preceding twelve months and has failed to respond to past treatment
1710 efforts, (ii) that the child juvenile is amenable to continued treatment efforts in the community, and (iii)
1711 the interests of the community and the child juvenile require that the child juvenile be placed under legal
1712 restraint or discipline, based on the nature of the present offense, the nature of the child's juvenile's prior
1713 delinquency record, and the nature of the past treatment efforts, then the court may order the child
1714 juvenile committed to the Department, but suspend such commitment and order the child juvenile
1715 confined in a detention home or other secure facility for juveniles for a period not to exceed six months,
1716 inclusive of time served in detention while awaiting disposition, for a single offense or for multiple
1717 offenses. In suspending the commitment to the Department as provided for in this subsection, the court
1718 shall specify conditions for the child's juvenile's participation in one or more community treatment
1719 programs as may be appropriate for the child's juvenile's rehabilitation.

1720 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~~ *juvenile'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~~ *juvenile* 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~~ *juvenile* 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~~ *juvenile* 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~~ *juvenile* is not actively involved in any community treatment program through no fault of his own, then the court shall order that the ~~child~~ *juvenile* be released under such conditions as the court may specify subject to the suspended commitment.

D. A ~~child~~ *juvenile* 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 § 16.1-309.4, 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 § 16.1-309.4 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.

§ 16.1-285. Duration of commitments.

Except as provided in § 16.1-285.1, all commitments under this ~~law~~ *chapter* shall be for an indeterminate period having regard to the welfare of the ~~child~~ *juvenile* and interests of the public, but no ~~child~~ *juvenile* committed hereunder *for an act other than one constituting murder or manslaughter* shall be held or detained *longer than thirty-six continuous months or after such* ~~child~~ *juvenile* has attained the age of twenty-one years; ~~however~~ . *However*, any ~~child~~ *juvenile* who is committed under this law as an abused or neglected child or a child in need of services shall have the right upon request to be released from such commitment at the age of eighteen years. The Department shall have the authority to discharge any ~~child~~ *juvenile* from its custody in accordance with policies and procedures established by the State Board and with other provisions of law.

§ 16.1-285.1. Commitment of serious offenders.

A. In the case of a juvenile fourteen years of age or older who has been found guilty of an offense which would be a felony if committed by an adult, and either (i) the juvenile is on parole for an offense which would be a felony if committed by an adult, (ii) the juvenile was committed to the state for an offense which would be a felony if committed by an adult within the immediately preceding twelve months ~~or~~, (iii) the felony offense is punishable by a term of confinement of greater than twenty years if the felony was committed by an adult, *or (iv) the juvenile has been previously adjudicated delinquent for an offense which if committed by an adult would be a felony punishable by a term of confinement of twenty years or more*, and the *circuit court or the district court, as the case may be*, finds that commitment under this section is necessary to meet the rehabilitative needs of the juvenile and would serve the best interests of the community, then the court may order the juvenile committed to the Department of Youth and Family Services for placement in a ~~learning~~ *juvenile correctional* center for the period of time prescribed pursuant to this section.

B. Prior to committing any juvenile pursuant to this section, the court shall consider:

1. The juvenile's age;

2. The seriousness and number of the present offenses, including (i) whether the offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the offense was against persons or property, with greater weight being given to offenses against persons, especially if death or injury resulted; (iii) whether the offense involved the use of a firearm or other dangerous weapon by brandishing, displaying, threatening with or otherwise employing such weapon; and (iv) the nature of the juvenile's participation in the alleged offense;

3. The record and previous history of the juvenile in this or any other jurisdiction, including (i) the number and nature of previous contacts with courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to ~~learning~~ *juvenile correctional* centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the offense is part of a repetitive pattern of similar adjudicated offenses; and

4. The Department's ~~recommended~~ *estimated* length of stay ~~based on treatment goals enumerated in the social history report~~.

1782 Such commitment order must be supported by a determination that the interests of the juvenile and
1783 community require that the juvenile be placed under legal restraint or discipline and that the juvenile is
1784 not a proper person to receive treatment or rehabilitation through other juvenile programs or facilities.

1785 C. In ordering commitment pursuant to this section, the court shall specify a period of commitment
1786 not to exceed seven years or the juvenile's twenty-first birthday, whichever shall occur first. *The court*
1787 *may also order a period of determinate or indeterminate parole supervision to follow the commitment*
1788 *which shall not exceed seven years or the juvenile's twenty-first birthday, whichever occurs first.*

1789 D. Upon receipt of a juvenile committed under the provisions of this section, the Department shall
1790 evaluate the juvenile for the purpose of considering placement of the juvenile in an appropriate ~~learning~~
1791 *juvenile correctional* center for the time prescribed by the committing court. Such a placement decision
1792 shall be made based on *the availability of treatment programs at the facility; the level of security at the*
1793 *facility; the offense for which the juvenile has been committed; and the welfare, age and gender of the*
1794 *juvenile.*

1795 E. The court which commits the juvenile to the Department under this section shall have continuing
1796 jurisdiction over the juvenile throughout his commitment. The continuing jurisdiction of the court shall
1797 not prevent the Department from removing the juvenile from a ~~learning~~ *juvenile correctional* center
1798 without prior court approval for the sole purposes of routine or emergency medical treatment, routine
1799 educational services, or family emergencies.

1800 F. Any juvenile committed under the provisions of this section shall not be released at a time earlier
1801 than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The
1802 Department may petition the committing court for a hearing as provided for in § 16.1-285.2 for an
1803 earlier release of the juvenile when good cause exists for an earlier release. In addition, the Department
1804 shall petition the committing court for a determination as to the continued commitment of each juvenile
1805 sentenced under this section at least sixty days prior to the second anniversary of the juvenile's date of
1806 commitment and sixty days prior to each annual anniversary thereafter.

1807 § 16.1-285.2. Release and review hearing for serious offender.

1808 A. Upon receipt of a petition of the Department of Youth and Family Services for a hearing
1809 concerning a juvenile committed under § 16.1-285.1, the court shall schedule a hearing within thirty
1810 days and shall appoint counsel for the juvenile pursuant to § 16.1-266. The court shall provide a copy of
1811 the petition, the progress report required by this section, and notice of the time and place of the hearing
1812 to (i) the juvenile, (ii) the juvenile's parent, legal guardian, or person standing in loco parentis, (iii) the
1813 juvenile's guardian ad litem, if any, (iv) the juvenile's legal counsel, and (v) the attorney for the
1814 Commonwealth who prosecuted the juvenile during the delinquency proceeding. *The attorney for the*
1815 *Commonwealth shall provide notice of the time and place of the hearing by first-class mail to the last*
1816 *known address of any victim of the offense for which the juvenile was committed if such victim has*
1817 *submitted a written request for notification to the attorney for the Commonwealth.*

1818 B. The petition shall be filed in the committing court and shall be accompanied by a progress report
1819 from the Department. This report shall describe (i) the facility and living arrangement provided for the
1820 juvenile by the Department, (ii) the services and treatment programs afforded the juvenile, (iii) the
1821 juvenile's progress toward treatment goals and objectives, which shall include a summary of his
1822 educational progress, (iv) the juvenile's potential for danger to either himself or the community, and (v)
1823 a comprehensive aftercare plan for the juvenile.

1824 *BI. The appearance of the juvenile before the court may be by (i) personal appearance before the*
1825 *judge, or (ii) use of two-way electronic video and audio communication. If two-way electronic video and*
1826 *audio communication is used, a judge may exercise all powers conferred by law and all communications*
1827 *and proceedings shall be conducted in the same manner as if the appearance were in person, and any*
1828 *documents filed may be transmitted by facsimile process. A facsimile may be served or executed by the*
1829 *officer or person to whom sent, and returned in the same manner, and with the same force, effect,*
1830 *authority, and liability as an original document. All signatures thereon shall be treated as original*
1831 *signatures. Any two-way electronic video and audio communication system used for an appearance shall*
1832 *meet the standards as set forth in subsection B of § 19.2-3.1.*

1833 C. At the hearing the court shall consider the progress report. The court may also consider additional
1834 evidence from (i) probation officers, the ~~learning~~ *juvenile correctional* center, treatment professionals,
1835 and the court service unit; (ii) the juvenile, his legal counsel, parent, guardian or family member; or (iii)
1836 other sources the court deems relevant. The hearing and all records relating thereto shall be governed by
1837 the confidentiality provisions of Article 12 (§ 16.1-299 et seq.) of this chapter.

1838 D. At the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to
1839 the Department for completion of the original determinate period of commitment or such lesser time as
1840 the court may order or (ii) release of the juvenile under such terms and conditions as the court may
1841 prescribe. In making a determination under this section, the court shall consider (i) the experiences and
1842 character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile
1843 was found to have committed, (iii) the manner in which the offenses were committed, (iv) the protection

of the community, (v) the recommendations of the Department, and (vi) any other factors the court deems relevant. The order of the court shall be final and not subject to appeal.

§ 16.1-290. Support of committed juvenile; support from estate of juvenile.

A. Whenever [(i)] legal custody of a juvenile is vested by the court in someone other than his parents [; or ~~whenever~~ (ii) a juvenile is (a)] placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, [~~is~~ (b)] *placed in temporary custody of the Department pursuant to subdivision 4a of § 16.1-278.8* [~~or is~~ , or (c)] committed to a secure local facility, after due notice to the parents or other persons legally obligated to care for and support the juvenile, and after an investigation and hearing, the court shall order and decree that the parent or other legally obligated person shall pay, in such a manner *and amount commensurate with ability to pay*, as the court may direct, ~~a reasonable sum commensurate with the ability to pay, that will cover in whole or in all or part~~ of the cost of support and treatment of the juvenile after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance so long as there may be funds for that purpose.

C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the parent or other legally obligated person shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.1-204.2, and 63.1-251.3.

§ 16.1-293. Supervision of juvenile during commitment and on parole; placing juvenile in halfway house.

At such time as the court commits a ~~child~~ juvenile to the Department, it shall determine whether the juvenile and domestic relations district court service unit or the local department of public welfare or social services shall maintain contact with the ~~child~~ juvenile during the ~~child's~~ juvenile's commitment. Except in exceptional cases, the court shall designate the local department to maintain contact with the ~~child~~ juvenile during commitment only when the ~~child~~ juvenile was in the custody of the local department immediately prior to his commitment to the Department. The Department shall return a ~~child~~ juvenile to the previously designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the ~~child~~ juvenile to the local agency, unless there is an agreement for an earlier release. However, when any ~~child~~ juvenile is committed to the Department by a circuit court, the ~~child~~ juvenile may, upon request of the judge, be returned to the committing court by the Department.

The local supervising agency shall be responsible for the development of a re-enrollment plan, in accordance with § 22.1-17.1, for each juvenile of compulsory school age or of age of eligibility for special education, with the assistance of representatives from the Department of Correctional Education and the local school division and with the juvenile correctional center counselor. Education information shall be shared by all parties at the point of commitment and prior to the juvenile's scheduled discharge, in accordance with § 22.1-289. Prior to the juvenile's scheduled discharge, the local school division superintendent where the juvenile will be enrolled shall identify the juvenile's education placement, which may include alternative education in accordance with § 22.1-277.1, and the re-enrollment plan shall be finalized.

The local supervising agency shall furnish the ~~child~~ juvenile a written statement of the conditions of his parole and shall instruct him regarding the same. *The conditions of the re-enrollment plan may be included in the conditions of parole.* Violations of parole shall be heard by the court pursuant to § 16.1-291. The director of the supervising agency may approve termination of parole supervision.

In the event it is determined by the juvenile and domestic relations district court that a ~~child~~ juvenile may benefit from placement in the halfway house program operated by the Department, the ~~child~~ juvenile may be referred for care and treatment to a halfway house. ~~Children~~ Juveniles so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those ~~children~~ juveniles who have violated their parole status.

§ 16.1-293. (Delayed effective date) Supervision of juvenile during commitment and on parole; placing juvenile in halfway house.

At such time as the court commits a ~~child~~ juvenile to the Department, it shall determine whether the family court service unit or the local department of public welfare or social services shall maintain contact with the ~~child~~ juvenile during the ~~child's~~ juvenile's commitment. Except in exceptional cases, the court shall designate the local department to maintain contact with the ~~child~~ juvenile during commitment only when the ~~child~~ juvenile was in the custody of the local department immediately prior to his commitment to the Department. The Department shall return a ~~child~~ juvenile to the previously designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the ~~child~~ juvenile to the local agency, unless

1905 there is an agreement for an earlier release. However, when any ~~child~~ juvenile is committed to the
1906 Department by a circuit court, the ~~child~~ juvenile may, upon request of the judge, be returned to the
1907 committing court by the Department.

1908 *The local supervising agency shall be responsible for the development of a re-enrollment plan, in*
1909 *accordance with § 22.1-17.1, for each juvenile of compulsory school age or of age of eligibility for*
1910 *special education, with the assistance of representatives from the Department of Correctional Education*
1911 *and the local school division and with the juvenile correctional center counselor. Education information*
1912 *shall be shared by all parties at the point of commitment and prior to the juvenile's scheduled*
1913 *discharge, in accordance with § 22.1-289. Prior to the juvenile's scheduled discharge, the local school*
1914 *division superintendent where the juvenile will be enrolled shall identify the juvenile's education*
1915 *placement, which may include alternative education in accordance with § 22.1-277.1, and the*
1916 *reenrollment plan shall be finalized.*

1917 The local supervising agency shall furnish the ~~child~~ juvenile a written statement of the conditions of
1918 his parole and shall instruct him regarding the same. Violations of parole shall be heard by the court
1919 pursuant to § 16.1-291. *The conditions of the reenrollment plan may be included in the conditions of*
1920 *parole.* The director of the supervising agency may approve termination of parole supervision.

1921 In the event it is determined by the family court that a ~~child~~ juvenile may benefit from placement in
1922 the halfway house program operated by the Department, the ~~child~~ juvenile may be referred for care and
1923 treatment to a halfway house. ~~Children~~ Juveniles so placed in a halfway house shall remain in parole
1924 status and cannot be transferred or otherwise placed in another institutional setting or institutional
1925 placement operated by the Department except as elsewhere provided by law for those ~~children~~ juveniles
1926 who have violated their parole status.

1927 § 16.1-299. Fingerprints and photographs of juveniles.

1928 A. Fingerprints of a juvenile fourteen years of age or older who is charged with a delinquent act
1929 which would be a felony if committed by an adult shall be taken and filed with the juvenile court by
1930 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
1931 may also be taken and filed by local law-enforcement officers. Fingerprints of a juvenile thirteen years
1932 of age or older who is charged with bodily wounding as provided in § 18.2-54 or § 18.2-52, use of a
1933 firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in
1934 § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy
1935 as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny
1936 as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes
1937 as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned
1938 felonies as provided in § 18.2-25 or § 18.2-26 shall be taken and filed with the juvenile court by
1939 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
1940 may also be taken and filed by local law-enforcement officers.

1941 B. A juvenile may be fingerprinted and photographed regardless of age or offense if he has been
1942 taken into custody for and charged with a violation of law, and a law-enforcement officer has
1943 determined that there is probable cause to believe that latent fingerprints found during the investigation
1944 of an offense are those of such juvenile.

1945 C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed
1946 of as follows:

1947 1. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in
1948 connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all
1949 photographs shall be destroyed sixty days after fingerprints were taken.

1950 2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal, finds a juvenile
1951 not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all
1952 photographs shall be destroyed within sixty days of such finding. However, all fingerprints and
1953 photographs of a juvenile who is less than thirteen years of age and who is found guilty of a delinquent
1954 act shall also be destroyed.

1955 3. If the court finds that a juvenile thirteen years of age or older has committed a delinquent act, the
1956 fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints
1957 may be entered into any police department's computer system by identification number or by any other
1958 method which insures the confidentiality of the juvenile's name : *All duly constituted police authorities*
1959 *having the power of arrest may take fingerprints and photographs of any juvenile who is taken into*
1960 *custody and charged with a delinquent act an arrest for which, if committed by an adult, is required to*
1961 *be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390.*
1962 *Whenever fingerprints are taken, they shall be maintained separately from adult records and a copy*
1963 *shall be filed with the juvenile court on forms provided by the Central Criminal Records Exchange.*

1964 4. B. If a juvenile fourteen years of age or older is (i) certified to tried in the circuit court pursuant
1965 to Article 7 (§ 16.1-269.1 et seq.) of this chapter and is adjudicated delinquent or and is found guilty as
1966 an adult of the of an offense charged for which a report to the Central Criminal Records Exchange is

required by subsection C of § 19.2-390 or (ii) if a juvenile of any age is adjudicated delinquent or found guilty in juvenile court of any offense which would be a felony if committed by an adult or any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult, or if a juvenile thirteen years of age or older is found guilty of any of the offenses specified in subsection A of this section or an attempt to commit any such offense in a juvenile court and is adjudicated delinquent, copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court which heard the case.

C. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed sixty days after fingerprints were taken. In cases resulting in a disposition for which fingerprints are not required to be forwarded to the Central Criminal Records Exchange, the court shall order that the fingerprint card, all copies of the fingerprints and all photographs be destroyed within sixty days of the date of disposition of the case.

§ 16.1-299. (Delayed effective date) Fingerprints and photographs of juveniles.

A. Fingerprints of a juvenile fourteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult shall be taken and filed with the juvenile court by law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs may also be taken and filed by local law-enforcement officers. Fingerprints of a juvenile thirteen years of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned felonies as provided in § 18.2-25 or § 18.2-26 shall be taken and filed with the juvenile court by law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs may also be taken and filed by local law-enforcement officers.

B. A juvenile may be fingerprinted and photographed regardless of age or offense if he has been taken into custody for and charged with a violation of law, and a law-enforcement officer has determined that there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such juvenile.

C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed of as follows:

1. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed sixty days after fingerprints were taken.

2. If the family court or the circuit court, pursuant to a transfer, waiver or appeal, finds a juvenile not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed within sixty days of such finding. However, all fingerprints and photographs of a juvenile who is less than thirteen years of age and who is found guilty of a delinquent act shall also be destroyed.

3. If the court finds that a juvenile thirteen years of age or older has committed a delinquent act, the fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints may be entered into any police department's computer system by identification number or by any other method which insures the confidentiality of the juvenile's name. All duly constituted police authorities having the power of arrest may take fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act an arrest for which, if committed by an adult, is required to be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390. Whenever fingerprints are taken, they shall be maintained separately from adult records and a copy shall be filed with the family court on forms provided by the Central Criminal Records Exchange.

4B. If a juvenile fourteen years of age or older is (i) certified to tried in the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.) of this chapter and is adjudicated delinquent or and is found guilty as an adult of the an offense charged for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 or (ii) if a juvenile of any age is adjudicated delinquent or found guilty in family court of any offense which would be a felony if committed by an adult or any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult, or if a juvenile thirteen years of age or older is found guilty of any of the offenses specified in subsection A of this section or an attempt to commit any such offense in a juvenile court and is adjudicated delinquent, copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court

2028 which heard the case.

2029 *C. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in*
2030 *connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all*
2031 *photographs shall be destroyed sixty days after fingerprints were taken. In cases resulting in a*
2032 *disposition for which fingerprints are not required to be forwarded to the Central Criminal Records*
2033 *Exchange, the court shall order that the fingerprint card and all copies of the fingerprints be destroyed*
2034 *within sixty days of the date of disposition of its case.*

2035 *§ 16.1-299.1. Blood sample required for DNA analysis upon conviction or adjudication of felony.*

2036 *A juvenile convicted of a felony shall have a sample of his blood taken for DNA analysis provided*
2037 *(i) the juvenile was fourteen years of age or older at the time of the commission of the offense.*

2038 *[The provisions of Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 shall apply to all*
2039 *persons and all blood samples taken as required by this section, mutadis mutandis.]*

2040 *§ 16.1-301. Confidentiality of law-enforcement records.*

2041 *A. The court shall require all law-enforcement agencies to take special precautions to ensure that*
2042 *law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized*
2043 *person. The police departments of the cities of the Commonwealth, and the police departments or*
2044 *sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other*
2045 *than violations of motor vehicle laws committed by juveniles. Unless a charge of delinquency is*
2046 *transferred for criminal prosecution in the circuit court or the court otherwise orders disclosure in the*
2047 *interests of the juvenile or of national security, such records with respect to such juvenile shall not be*
2048 *open to public inspection nor their contents disclosed to the public.*

2049 *B. Inspection of such records shall be permitted only by the following:*

2050 *1. A court having the juvenile currently before it in any proceeding;*

2051 *2. The officers of public and nongovernmental institutions or agencies to which the juvenile is*
2052 *currently committed, and those responsible for his supervision after release;*

2053 *3. Any other person, agency, or institution, by order of the court, having a legitimate interest in the*
2054 *case or in the work of the law-enforcement agency;*

2055 *4. Law-enforcement officers of other jurisdictions, by order of the court, when necessary for the*
2056 *discharge of their current official duties;*

2057 *5. The probation and other professional staff of a court in which the juvenile is subsequently*
2058 *convicted of a criminal offense for the purpose of a presentence report or other dispositional*
2059 *proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or*
2060 *by a parole board in considering his parole or discharge or in exercising supervision over him;*

2061 *6. The juvenile, parent, guardian or other custodian and counsel for the juvenile by order of the*
2062 *court; and*

2063 *7. As provided in §§ 19.2-389.1 and 19.2-390.*

2064 *C. The police department of the cities and towns and the police departments or sheriffs of the*
2065 *counties may release, upon request to one another and to state and federal law-enforcement agencies,*
2066 *current information on juvenile arrests. ~~The information exchanged shall be limited to name, address,~~*
2067 *~~physical description, date of arrest, and the charge for which the arrest was made.~~ The information*
2068 *exchanged shall be used by the receiving agency for current investigation purposes only and shall not*
2069 *result in the creation of new files or records on individual juveniles on the part of the receiving agency.*

2070 *D. Nothing in this section shall prohibit the exchange of law-enforcement or other criminal*
2071 *investigative or intelligence information among law-enforcement agencies.*

2072 *§ 16.1-302. Dockets, indices and order books; when hearings and records private; right to public*
2073 *hearing; presence of juvenile in court.*

2074 *A. Every juvenile court shall keep a separate docket of cases arising under this law.*

2075 *B. Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate*
2076 *order book or file for cases on appeal from the juvenile court except: (i) cases involving support*
2077 *pursuant to § 20-61 or subdivisions A 3, F or L of § 16.1-241; (ii) cases involving criminal offenses*
2078 *committed by adults which are commenced on a warrant or a summons as described in Title 19.2; and*
2079 *(iii) cases involving civil commitments of adults pursuant to Title 37.1. Such cases shall be docketed on*
2080 *the appropriate docket and the orders in such cases shall be entered in the appropriate order book as*
2081 *used with similar cases commenced in circuit court.*

2082 *C. The general public shall be excluded from all juvenile court hearings and only such persons*
2083 *admitted as the judge shall deem proper, except that in juvenile and domestic relations court hearings*
2084 *held on a petition or warrant alleging that a juvenile fourteen years of age or older committed an*
2085 *offense which would be a felony if committed by an adult shall be open, subject to the provisions of*
2086 *subsection D. The court may, sua sponte or on motion of the juvenile or the attorney for the*
2087 *Commonwealth, for good cause shown, close the proceedings. If the proceedings are closed, the court*
2088 *shall state in writing its reasons and the statement shall be made a part of the public record.*

2089 *D. In any hearing held for the purpose of adjudicating ~~the~~ an 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 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.

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

B. 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.

C. The general public shall be excluded from all family court hearings and only such persons admitted as the judge shall deem proper, except that (i) this provision shall not apply to cases for divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, change of name, amendment of a birth certificate, or judicial review of school board actions or of hearing officer decisions; and (ii) in any hearing held for the purpose of adjudicating the alleged violation of any criminal law or law defining a traffic infraction, the child 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.

D. All family court hearings held on a petition or warrant alleging that a juvenile fourteen years of age or older committed an offense which would be a felony if committed by an adult shall be open, subject to the provisions of clause ii of subsection C. The court may, sua sponte or on motion of the juvenile or the attorney for the Commonwealth, for good cause shown, close the proceedings. If the proceedings are closed, the court shall state in writing its reasons and the statement shall be made a part of the public record.

E. In all other cases, the public shall be excluded and only such persons admitted as the court deems proper.

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 of tender years, the presence of such ~~child~~ juvenile in court may be waived by the judge at any stage thereof.

§ 16.1-302.1. *Right of victim or representative to attend certain proceedings.*

During proceedings involving petitions alleging that a juvenile is delinquent, including proceedings on appeal, any victim as defined in § 19.2-11.01 may remain in the courtroom. In any such case involving a minor victim, the court may permit an adult chosen by the minor victim to be present in the courtroom during the proceedings in addition to or in lieu of the minor's parent or guardian.

However, if either the attorney for the Commonwealth or any defendant represents to the court that

2151 *he intends to call as a material witness any victim as defined in § 19.2-11.01, the court, on motion,*
2152 *shall exclude that person from the trial or proceedings.*

2153 *The attorney for the Commonwealth shall give prior notice of any such proceedings and changes in*
2154 *the scheduling thereof to any known victim and to any known adult chosen in accordance with this*
2155 *section by a minor victim at the address or telephone number, or both, provided in writing by such*
2156 *persons.*

2157 § 16.1-303. Reports of court officials and employees when privileged.

2158 All information obtained in discharge of official duties by any official or by any employee of the
2159 court shall be privileged, and shall not be disclosed to anyone other than the judge unless and until
2160 otherwise ordered by the judge or by the judge of a circuit court; provided, however, that in any case
2161 when such information shall disclose that an offense has been committed which would be a felony if
2162 committed by an adult, it shall be the duty of the official or employee of the court obtaining such
2163 information to report the same promptly to the attorney for the Commonwealth or the police in the
2164 county, city or town where the offense occurred. *It shall not be deemed a violation of this section if the*
2165 *disclosed information is otherwise available to the public.*

2166 § 16.1-305. Confidentiality of court records.

2167 A. Social, medical and psychiatric or psychological records, including reports or preliminary
2168 inquiries, predisposition studies and supervision records, of neglected and abused children, children in
2169 need of services, *children in need of supervision* and delinquent children shall be filed with the other
2170 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and
2171 records of the court and shall be open for inspection only to the following:

2172 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic
2173 relations district courts;

2174 2. Representatives of a public or private agency or department providing supervision or having legal
2175 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

2176 3. The attorney for any party *and the attorney for the Commonwealth;*

2177 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
2178 case or in the work of the court; however, for the purposes of preparation of a presentence report upon
2179 a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board,
2180 adult probation and parole officers, including United States Probation and Pretrial Services Officers,
2181 shall have access to an accused's or inmate's records in juvenile court.

2182 B. All or any part of the records enumerated in subsection A, or information secured from such
2183 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
2184 be made available to the parties to the proceedings and their attorneys.

2185 *B1. All court records relating to a juvenile fourteen years of age or over, adjudicated delinquent on*
2186 *the basis of an act which would be a felony if committed by an adult, other than those records specified*
2187 *in subsection A but including the docket, petitions, motions and other papers filed with any case*
2188 *involving the juvenile and the transcripts of testimony, findings, verdicts, orders and decrees in any such*
2189 *cases, shall be open to the public.*

2190 *B2. All court records relating to a juvenile fourteen years of age or over, adjudicated delinquent on*
2191 *the basis of an act which would be a felony if committed by an adult, other than those records specified*
2192 *in subsection A, relating to a juvenile released pending trial with restrictions under §16.1-250 (E), or to*
2193 *a juvenile placed on probation with conditions under § 16.1-278.8, shall be open to inspection by the*
2194 *law-enforcement agency of the locality over which the court has jurisdiction. The same court records*
2195 *relating to a juvenile released on parole supervision under § 16.1-293 shall be open to inspection by the*
2196 *law enforcement agency for the locality to which the juvenile has been released. Information contained*
2197 *in such court records shall be kept confidential in accordance with § 16.1-301 and shall be used by the*
2198 *local law enforcement agency only for the purpose of assisting the local court services unit in*
2199 *monitoring juveniles who have been released with restrictions pending trial, juveniles who have been*
2200 *placed on probation with conditions and juveniles who have been placed on parole supervision.*

2201 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
2202 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
2203 those persons and agencies designated in subsections A and B of this section.

2204 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
2205 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,
2206 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney
2207 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney
2208 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding
2209 and that such papers will be only used for such evidentiary purpose.

2210 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to
2211 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
2212 award to the victim of a crime, and such information shall not be disseminated or used by the

Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the disposition in a case involving a juvenile who is committed to state care after being adjudicated for a criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a written request, the Department of Youth and Family Services shall provide advance notice of such juvenile offender's anticipated date of release from commitment.

§ 16.1-305. (Delayed effective date) Confidentiality of court records.

A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records, of neglected and abused children, children in need of services, *children in need of supervision* and delinquent children shall be filed with the other papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and records of the court and shall be open for inspection only to the following:

1. The judge, probation officers and professional staff assigned to serve the family courts;
2. Representatives of a public or private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;
3. The attorney for any party *and the attorney for the Commonwealth*;
4. Any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court; however, for the purposes of preparation of a presentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, shall have access to an accused's or inmate's records in family court.

B. All or any part of the records enumerated in subsection A, or information secured from such records, which is presented to the judge in court or otherwise in a proceeding under this law shall also be made available to the parties to the proceedings and their attorneys.

B1. All court records relating to a juvenile fourteen years of age or over, adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, other than those records specified in subsection A but including the docket, petitions, motions and other papers filed with any case involving the juvenile and the transcripts of testimony, findings, verdicts, orders and decrees in any such cases, shall be open to the public.

B2. All court records relating to a juvenile fourteen years of age or over, adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, other than those records specified in subsection A, relating to a juvenile released pending trial with restrictions under §16.1-250 (E), or to a juvenile placed on probation with conditions under § 16.1-278.8, shall be open to inspection by the law-enforcement agency of the locality over which the court has jurisdiction. The same court records relating to a juvenile released on parole supervision under § 16.1-293 shall be open to inspection by the law-enforcement agency for the locality to which the juvenile has been released. Information contained in such court records shall be kept confidential in accordance with § 16.1-301 and shall be used by the local law-enforcement agency only for the purpose of assisting the local court services unit in monitoring juveniles who have been released with restrictions pending trial, juveniles who have been placed on probation with conditions and juveniles who have been placed on parole supervision.

C. All other juvenile records, including the docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by those persons and agencies designated in subsections A and B of this section.

D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding and that such papers will be only used for such evidentiary purpose.

E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an award to the victim of a crime, and such information shall not be disseminated or used by the Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

F. Section 20-124 shall govern the confidentiality of court records in cases involving divorce, annulment or affirmation of marriage, separate maintenance and equitable distribution based on a foreign decree. Sections 63.1-235 and 63.1-236 shall govern the confidentiality of adoption cases.

G. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the disposition in a case involving a juvenile who is committed to state care after being adjudicated for a criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a

2274 written request, the Department of Youth and Family Services shall provide advance notice of such
2275 juvenile offender's anticipated date of release from commitment.

2276 § 16.1-305.1. Disclosure of disposition in certain delinquency cases.

2277 Upon disposition of a proceeding in a court of competent jurisdiction in which a juvenile is
2278 adjudicated delinquent or convicted of a crime based upon a violation of the law involving (i) the
2279 unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of Chapter 7
2280 of Title 18.2, (ii) homicide, pursuant to Article 1 (§ 18.2-31 et seq.) of Chapter 4 of Title 18.2, (iii)
2281 felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title
2282 18.2, (iv) criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (v)
2283 manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to
2284 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (vi) manufacture, sale or distribution of
2285 marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (vii) arson and related
2286 crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (viii) burglary *and related*
2287 *offenses*, pursuant to §§ 18.2-89 *through* 18.2-93, the clerk of the court in which the disposition is
2288 entered shall, within fifteen days if there has been no notice of an appeal, provide written notice of the
2289 disposition ordered by the court, including the nature of the offense upon which the adjudication or
2290 conviction was based, to the superintendent of the school division in which the child is enrolled at the
2291 time of the disposition or, if he is not then enrolled in school, the division in which he was enrolled at
2292 the time of the offense. ~~Further disclosure of this information by the superintendent to school personnel~~
2293 ~~is authorized only as provided in § 22.1-288.2.~~

2294 § 16.1-307. Circuit court records regarding juveniles.

2295 In proceedings against a ~~child juvenile~~ in the circuit court in which the ~~circuit court~~ deals with the
2296 ~~child in the same manner as a case in the juvenile court~~, the clerk of the court shall preserve all records
2297 ~~connected with the proceedings in files separate from other files and records of the court as provided in~~
2298 ~~§ 16.1-302. Except as provided in §§ 19.2-389.1 and 19.2-390, such records shall be open for inspection~~
2299 ~~only in accordance with the provisions of § 16.1-305 and shall be subject to the expungement provisions~~
2300 ~~of § 16.1-306 juvenile, fourteen years of age or older at the time of the offense, was adjudicated~~
2301 ~~delinquent in juvenile court on the basis of an act which would be a felony if committed by an adult, or~~
2302 ~~was found guilty of a felony in the circuit court, any court records pertaining to the juvenile, other than~~
2303 ~~social, medical and psychiatric or psychological records, shall be available and shall be treated in the~~
2304 ~~same manner as adult criminal records.~~

2305 § 16.1-307. (Delayed effective date) Circuit court records regarding juveniles.

2306 In proceedings against a ~~child juvenile~~ in the circuit court in which the ~~circuit court~~ deals with the
2307 ~~child in the same manner as a case in the family court~~, the clerk of the court shall preserve all records
2308 ~~connected with the proceedings in files separate from other files and records of the court as provided in~~
2309 ~~§ 16.1-302. Except as provided in §§ 19.2-389.1 and 19.2-390, such records shall be open for inspection~~
2310 ~~only in accordance with the provisions of § 16.1-305 and shall be subject to the expungement provisions~~
2311 ~~of § 16.1-306 juvenile, fourteen years of age or older at the time of the offense, was adjudicated~~
2312 ~~delinquent in the family court on the basis of an act which would be a felony if committed by an adult,~~
2313 ~~or was found guilty of a felony in the circuit court, any court records pertaining to the juvenile, other~~
2314 ~~than social, medical and psychiatric or psychological records, shall be available and shall be treated in~~
2315 ~~the same manner as adult criminal records.~~

2316 § 16.1-308. Effect of adjudication on status of child.

2317 *Except as otherwise provided by law for juveniles whose cases are disposed of by the circuit courts*
2318 *in the same manner as an adult criminal case*, a finding of guilty on a petition charging delinquency
2319 under the provisions of this law shall not operate to impose any of the *civil* disabilities ordinarily
2320 imposed by conviction for a crime, nor shall any such finding operate to disqualify the child for
2321 employment by any state or local governmental agency.

2322 § 16.1-309. Penalty.

2323 A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who
2324 (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii)
2325 participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed
2326 concerning such allegations and whose information is derived solely from such interview or (v) is
2327 present during any court proceeding, who discloses or makes use of or knowingly permits the use of
2328 identifying information *not otherwise available to the public* concerning a juvenile who is suspected of
2329 being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to
2330 subdivisions 1 through 5 of subsection A of § 16.1-241 or who is in the custody of the State Department
2331 of Youth and Family Services, which information is directly or indirectly derived from the records or
2332 files of a law-enforcement agency, court or the Department of Youth and Family Services or acquired in
2333 the course of official duties, shall be guilty of a Class 3 misdemeanor.

2334 B. The provisions of this section shall not apply to any law-enforcement officer or school employee
2335 who discloses to school personnel identifying information concerning a juvenile who is suspected of

committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made solely to enable school personnel to take appropriate actions within the school setting with regard to the juvenile or another student.

§ 16.1-309. (Delayed effective date) Penalty.

A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information *not otherwise available to the public* concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the family court pursuant to subdivisions 1 through 5 of subsection A of § 16.1-241 or who is in the custody of the State Department of Youth and Family Services, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Youth and Family Services or acquired in the course of official duties, shall be guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made solely to enable school personnel to take appropriate actions within the school setting with regard to the juvenile or another student.

§ 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 juvenile correctional* center and detention home needs.

§ 18.2-473. Persons aiding escape of prisoner or child.

When a person is lawfully detained as a prisoner in any jail or prison or held in custody, or when a child is placed in a local juvenile detention home, or committed to the Department of Youth and Family Services in any *learning juvenile correctional* center, or Reception and Diagnostic Center for Children or held in custody, if any person: (1) conveys anything into the jail, prison, juvenile detention home, *learning juvenile correctional* center or Reception and Diagnostic Center for Children with intent to facilitate a person's escape therefrom, (2) in any way aids such prisoner or child to escape, or in an attempt to escape, from such jail, prison, juvenile detention home, *learning juvenile correctional* center, Reception and Diagnostic Center for Children or custody, or (3) forcibly takes, or attempts to take him therefrom, such person, if the taking or escape is effected, shall, if the prisoner or child was detained on conviction, commitment or charge of felony, be confined in a state correctional facility not less than one year nor more than five years. If the same is not effected, or if the prisoner or child was not detained on such conviction, commitment or charge, he shall be guilty of a Class 1 misdemeanor.

§ 19.2-3.1. Personal appearance by two-way electronic video and audio communication; standards.

A. Where an appearance is required or permitted before a magistrate, *intake officer* or, prior to trial, before a judge, the appearance may be by (i) personal appearance before the magistrate, *intake officer* or judge or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a magistrate, *intake officer* or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by electronically transmitted facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

B. Any two-way electronic video and audio communication system used for an appearance shall meet

2397 the following standards:

2398 1. The persons communicating must simultaneously see and speak to one another;

2399 2. The signal transmission must be live, real time;

2400 3. The signal transmission must be secure from interception through lawful means by anyone other
2401 than the persons communicating; and

2402 4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

2403 § 19.2-311. Indeterminate commitment to Department of Corrections in certain cases; duration and
2404 character of commitment; concurrence by Department.

2405 A. The judge, after a finding of guilt, when fixing punishment in those cases specifically enumerated
2406 in subsection B of this section, may, in his discretion, in lieu of imposing any other penalty provided by
2407 law and, with consent of the person convicted, commit such person for a period of four years, which
2408 commitment shall be indeterminate in character. Subject to the provisions of subsection C hereof, such
2409 persons shall be committed to the Department of Corrections for initial confinement for a period not to
2410 exceed three years. Such confinement shall be followed by at least one year of supervisory parole,
2411 conditioned on good behavior, but such parole period shall not, in any case, continue beyond the
2412 four-year period. The sentence of indeterminate commitment and eligibility for continuous evaluation
2413 and parole under § 19.2-313 shall remain in effect but eligibility for use of programs and facilities
2414 specified in § 53.1-64 shall lapse if such person (i) voluntarily withdraws from the youthful offender
2415 program, (ii) exhibits intractable behavior as defined in § 53.1-66, or (iii) is convicted of a second
2416 criminal offense which is a felony. A sentence imposed for any second criminal offense shall run
2417 consecutively with the indeterminate sentence.

2418 B. The provisions of subsection A of this section shall be applicable to first convictions in which the
2419 person convicted:

2420 1. Committed the offense of which convicted after becoming eighteen but before becoming
2421 twenty-one years of age; ~~or was a juvenile certified for trial as an adult under the provisions of~~
2422 ~~§ 16.1-269.6 or § 16.1-272;~~

2423 2. Was convicted of an offense which is either (i) a felony not punishable as a Class 1 felony; or (ii)
2424 a misdemeanor involving injury to a person or damage to or destruction of property; and

2425 3. Is considered by the judge to be capable of returning to society as a productive citizen following a
2426 reasonable amount of rehabilitation.

2427 C. Subsequent to a finding of guilt and prior to fixing punishment, the Department of Corrections
2428 and the Parole Board shall, concurrently with the evaluation required by § 19.2-316, review all aspects
2429 of the case to determine whether (i) such indeterminate sentence of commitment is in the best interest of
2430 the Commonwealth and of the person convicted and (ii) facilities are available for the confinement of
2431 such person. After the review such person shall be again brought before the court, which shall review
2432 the findings of the Department and the Parole Board. The court may impose a sentence as authorized in
2433 subsection A, or any other penalty provided by law.

2434 § 19.2-388. Duties and authority of Exchange.

2435 A. It shall be the duty of the Central Criminal Records Exchange to receive, classify and file
2436 criminal history record information as defined in § 9-169 and other records required to be reported to it
2437 by §§ 16.2-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local
2438 law-enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile
2439 and domestic relations district courts; and to corrections and penal officials, forms which shall be used
2440 for the making of such reports.

2441 B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records
2442 and shall be destroyed ~~when the juvenile has attained the age of twenty-nine, unless he was convicted of~~
2443 ~~an offense reportable to the Central Criminal Records Exchange committed when he was between the~~
2444 ~~ages of eighteen and twenty-nine.~~

2445 § 19.2-389. Dissemination of criminal history record information.

2446 A. Criminal history record information *filed with the Central Criminal Records Exchange* shall be
2447 disseminated, whether directly or through an intermediary, only to:

2448 1. Authorized officers or employees of criminal justice agencies, as defined by § 9-169, for purposes
2449 of the administration of criminal justice and the screening of an employment application or review of
2450 employment by a criminal justice agency with respect to its own employees or applicants, and
2451 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
2452 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
2453 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every thirty days;

2454 2. Such other individuals and agencies which require criminal history record information to
2455 implement a state or federal statute or executive order of the President of the United States or Governor
2456 that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based
2457 upon such conduct, except that information concerning the arrest of an individual may not be
2458 disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from

the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency which shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government which are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth for the conduct of investigations of applicants for public employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

8. Public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9-169 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer (i) with a Virginia affiliate of Big Brothers/Big Sisters of America, (ii) with a volunteer fire company or volunteer rescue squad, (iii) as a court-appointed special advocate, or (iv) with the Volunteer Emergency Families for Children;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.1-195 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.1-198 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to § 63.1-198.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment;

14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.);

15. Licensed nursing homes and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01 and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.1-173.2, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day-care centers pursuant to § 63.1-194.13, subject to the limitations set out in subsection F;

17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;

19. The Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services for those individuals who are committed to the custody of the Commissioner pursuant to

§§ 19.2-169.2, 19.2-169.6, 19.2-176, 19.2-177.1, 19.2-182.2, 19.2-182.3, 19.2-182.8 and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning; and

20. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.1-135.1.

E. Criminal history information provided to licensed nursing homes and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01 and 32.1-162.9:1.

F. Criminal history information provided to licensed adult care residences, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 63.1-173.2, 63.1-189.1 or § 63.1-194.13.

§ 19.2-389.1. Dissemination of juvenile record information.

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and 18.2-308.2:2 of eligibility to possess or purchase a firearm, (ii) to aid in the preparation of a pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or § 19.2-299 to attorneys for the Commonwealth, law-enforcement officers and probation and parole officers, (iii) to aid all court service units serving juvenile delinquent offenders, and (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace and clerks of court to State Police; material submitted by other agencies.

A. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest on any of the following charges:

1. Treason;

2. Any felony;

3. Any offense punishable as a misdemeanor under Title 54.1; or

4. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, for violation of Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any similar ordinance of any county, city or town.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau.

For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not

be required until (i) after a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or (iii) after a verdict of acquittal by reason of insanity pursuant to § 19.2-182.2. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following his conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. Within seventy-two hours following the receipt of a warrant or capias for the arrest of any person on a charge of a felony, the law-enforcement agency which received the charge shall enter the accused's name and other appropriate information required by the Department of State Police into the "information system", known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The report shall include the person's name, date of birth, social security number and such other known information which the State Police may require. Any unexecuted criminal process which has been entered into the VCIN system shall be removed forthwith by the entering law-enforcement agency when the criminal process has been ordered destroyed pursuant to § 19.2-76.1.

C. The clerk of each circuit court and district court shall make a report to the Central Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency, nolle prosequi, acquittal, or conviction of, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A of this section and (ii) any adjudication of delinquency based upon an act which ~~would be a felony~~, if committed by an adult, ~~provided fingerprints and photographs of the juvenile were required~~ *would require fingerprints to be taken* ~~filed~~ pursuant to subsection A of ~~§ 16.1-299~~. In the case of offenses not required to be reported to the Exchange by subsection A of this section, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.1-135.1. Upon conviction of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to ~~§ 16.1-269~~ *16.1-269.1*, whether sentenced as adults or juveniles, the clerk shall also submit a report to the Sex Offender Registry. The report to the Sex Offender Registry shall include the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry, and each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN system.

D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal Records Exchange may receive, classify and file any other fingerprints and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

E. Corrections officials responsible for maintaining correctional status information, as required by the rules and regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange.

F. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Sex Offender Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than thirty days after occurrence of the disposition or correctional change of status; and (ii) to report promptly any correction, deletion, or revision of the information.

2643 G. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records
2644 Exchange shall notify all criminal justice agencies known to have previously received the information.

2645 As used in this section, the term "chief law-enforcement officer" means the chief of police of cities
2646 and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief
2647 law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall
2648 be controlling.

2649 § 19.2-392.01. Judges may require taking of fingerprints and photographs in certain misdemeanor
2650 cases.

2651 The judge of a ~~general~~ district court may, in his discretion, on motion of the attorney for the
2652 Commonwealth, require the duly constituted police officers of the county, city or town within the
2653 territorial jurisdiction of the court to take the fingerprints and photograph of any person who has been
2654 arrested and charged with a misdemeanor other than a misdemeanor which is a violation of any
2655 provision of Title 46.2.

2656 § 22.1-209.1:2. (Effective until July 1, 1997) Alternative education programs for certain students.

2657 A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a
2658 program consisting of alternative education options for school-age children in compliance with
2659 subdivision D 8 of § 22.1-253.13:1 who (i) have committed an offense in violation of school board
2660 policies relating to weapons, alcohol or drugs, or intentional injury to another person, or against whom a
2661 petition or warrant has been filed alleging such acts or school board charges alleging such policy
2662 violations are pending; (ii) have been expelled from school attendance or have received one suspension
2663 for an entire semester, or have received two or more long-term suspensions within one school year; or
2664 (iii) have been released from a ~~youth learning~~ *juvenile correctional* center and have been identified by
2665 the Superintendent of the Department of Correctional Education and the relevant division superintendent
2666 as requiring an alternative education program. However, no child shall be assigned to any alternative
2667 education program described in this section for more than one school year without an annual assessment
2668 of the placement to determine the appropriateness of transitioning the child into the school division's
2669 regular program. On and after July 1, 1994, the program shall consist of up to ten regional pilot
2670 projects; any additional pilot projects shall be located in regions throughout the state to provide greater
2671 geographical distribution of such projects. All such projects shall be awarded on a competitive basis to
2672 applicants responding to requests for proposals, giving priority in awarding any new sites, to the extent
2673 practicable, to applicants in areas with high student suspension and expulsion rates that meet the
2674 requirements in subsection B of this section. The Board of Education shall promulgate regulations for
2675 the implementation of the program.

2676 B. Upon the appropriation of funds for the purposes of this section, the Department of Education
2677 shall issue a request for proposals for regional projects to pilot selected alternative education options by
2678 July 1, 1993. The first such grants shall be awarded by August 20, 1993. Applications for grants shall
2679 include the following components:

2680 1. An agreement executed by two or more school divisions and approval of their respective
2681 governing bodies to pilot an alternative education option as provided in subsection A, and a plan for the
2682 apportionment of responsibilities for the administration, management, and support of the program,
2683 including, but not limited to, the facilities and location for the program, daily operation and oversight,
2684 staffing, instructional materials and resources, transportation, funding and in-kind services, and the
2685 program of instruction.

2686 2. A procedure for obtaining the participation in or support for the program, as may be determined,
2687 of the parents, guardian or other person having charge or control of a child placed in the program.

2688 3. An interagency agreement for cooperation executed by the local departments of health and social
2689 services or welfare; the juvenile and domestic relations district court; law-enforcement agencies;
2690 institutions of higher education and other post-secondary training programs; professional and community
2691 organizations; the business and religious communities; dropout prevention and substance abuse
2692 prevention programs; community services boards located in the applicants' respective jurisdictions; and
2693 the Department of Correctional Education.

2694 4. A curriculum developed for intensive, accelerated instruction designed to establish high standards
2695 and academic achievement for participating students.

2696 5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

2697 6. A low pupil-teacher ratio to promote a high level of interaction between the students and the
2698 teacher.

2699 7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling;
2700 organized, age-appropriate, developmental education for elementary and middle school children; and
2701 opportunities that enhance acculturation and permit students to improve their social and interpersonal
2702 relationship skills.

2703 8. Community outreach to build strong school, business, and community partnerships, and to promote
2704 parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to ~~youth learning~~ *juvenile correctional* centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other post-secondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional pilot alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

C. Beginning with the first year of program implementation, the Department of Education shall be entitled to deduct annually from the locality's share for the education of its students a sum equal to the actual local expenditure per pupil for the support of those students placed by the relevant school division in any such pilot program. The amount of the actual transfers shall be based on data accumulated during the prior school year.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

E. The Board shall require submission of interim evaluation reports of each pilot program biannually and shall compile these reports and other program materials and report the status of such programs on a periodic basis, as may be established, during the 1993 legislative interim to the Special Joint Subcommittee on School Crime and Violence. The Board shall report the effectiveness of such programs and their components annually to the Governor and the General Assembly beginning by December 1, 1994.

F. For the purposes of this section, "regional pilot program" means a program supported and implemented by two or more school divisions which are either geographically contiguous or have a community of interest.

G. For the purposes of this section, "one school year" means no more than 180 teaching days.

§ 22.1-277.3. *Superintendent's receipt of notice of the filing of a petition.*

When a superintendent of a local school division receives notice of the filing of a petition from the court or a court services unit in accordance with § 16.1-260, or upon request for such information made in conjunction with the preparation of a juvenile's social history in accordance with § 16.1-273, the superintendent shall provide information regarding the juvenile's educational placement, services and progress. When a superintendent receives notice of a juvenile's return to the community following commitment, the superintendent or his designee shall participate in the development of a reenrollment plan, in compliance with the regulations for reenrollment according to § 22.1-17.1.

§ 22.1-277.4. *Juveniles expelled from school.*

In the case of juveniles who have been expelled from school in accordance with § 22.1-277, the court may not order a local school board to reenroll the juvenile.

§ 22.1-344. Appointment of Superintendent of Correctional Education; powers and duties.

The Governor shall appoint, subject to confirmation by the General Assembly, the Superintendent of the Department of Correctional Education, who shall meet the minimum standards for division superintendents set by the Board of Education. The Superintendent shall supervise the administration of the Department of Correctional Education, and prepare, approve, and submit all requests for appropriations and be responsible for all expenditures pursuant to appropriations. The Superintendent shall also employ teachers and place them in appropriate schools. The Superintendent shall also develop and implement a literacy program for inmates in correctional facilities. It shall be the duty of the Superintendent of Correctional Education to notify the division superintendent of the school division of the school last attended by a pupil that such pupil is in attendance in a school in the department's ~~learning~~ *juvenile correctional* centers. Such notice shall include, but not be limited to, name, address, age, last school attended, the last grade in which the pupil was enrolled, and the program of instruction in which such pupil is enrolled currently at the ~~learning~~ *juvenile correctional* center. Other powers and duties of the Superintendent of Correctional Education shall be fixed by the Board of Education in accordance with law.

§ 29.1-317. Special fishing permits for certain juveniles.

A. Upon application from the superintendent of any juvenile ~~learning~~ *correctional* center maintained and operated by the Department of Youth and Family Services, the Director may issue a permit to allow

2766 the residents of such ~~learning~~ *juvenile correctional* center to fish under supervision without licenses in
 2767 public waters open to fishing. The permits shall not be issued for use in designated waters stocked with
 2768 trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318.

2769 B. The application for the permit shall state the name and description of the group, the period of
 2770 time during which it will be used, the general area in which it will be used, and the name of the person
 2771 who will be responsible for the group.

2772 § 53.1-63.1. *Department to establish facilities for juveniles sentenced as adults.*

2773 *The Department shall establish, staff and maintain, at any state correctional facilities designated by*
 2774 *the Board, programs and housing for the rehabilitation, training, and confinement of juveniles sentenced*
 2775 *by the circuit courts as adults and committed to the Department pursuant to § 16.1-272. The Department*
 2776 *of Correctional Education shall establish, staff, and maintain education for such juveniles in accordance*
 2777 *with Chapter 18 (§ 22.1-339 et seq.) of Title 22.1.*

2778 § 53.1-66. Transfer of prisoners to other facilities.

2779 Any person confined by the Department in a facility established by this chapter may be transferred
 2780 from such facility to other facilities in the state corrections system for the remainder of the period of
 2781 commitment under § 16.1-272 or Article 2 (§ 19.2-311 et seq.) of Chapter 18 of Title 19.2, upon a
 2782 written finding by the Department submitted to the sentencing court that the person has exhibited
 2783 intractable behavior or, *in the case of persons committed under § 19.2-311*, otherwise becomes ineligible
 2784 to use such facilities pursuant to § 19.2-311.

2785 "Intractable behavior" means behavior which (i) indicates an inmate's unwillingness or inability to
 2786 conform his behavior to that necessary to his successful completion of the program or (ii) is so
 2787 disruptive as to threaten the successful completion of the program by other participants.

2788 § 66-10. Powers and duties of Board.

2789 The Board shall have the following powers and duties:

2790 1. To develop and establish programmatic and fiscal policies governing the operation of programs
 2791 and facilities for which the Department is responsible under this law.

2792 2. To ensure the development and implementation of a long-range youth services policy.

2793 3. To review and comment on all budgets and requests for appropriations for the Department prior to
 2794 their submission to the Governor and on all applications for federal funds.

2795 4. To monitor the activities of the Department and its effectiveness in implementing the policies of
 2796 the Board.

2797 5. To advise the Governor, Director and the General Assembly on matters relating to youth services.

2798 6. To promulgate such regulations as may be necessary to carry out the provisions of this title and
 2799 other laws of the Commonwealth administered by the Director or the Department. The Board of Youth
 2800 and Family Services may adopt such Board of Corrections' regulations and standards as it may deem
 2801 appropriate. If regulations and standards so adopted are not amended substantively by the Board of
 2802 Youth and Family Services, such Board need not comply with the provisions of Article 2 (§ 9-6.14:7.1
 2803 et seq.) of Chapter 1.1:1 of Title 9.

2804 7. To ensure the development of programs to educate citizens and elicit public support for the
 2805 activities of the Department.

2806 8. *To establish length-of-stay guidelines for juveniles indeterminately committed to the Department*
 2807 *and to make such guidelines available for public comment.*

2808 § 66-13. Authority of Department as to juveniles committed to it; establishment of facilities;
 2809 arrangements for temporary care.

2810 A. The Department is authorized and empowered to receive ~~children~~ *juveniles* committed to it by the
 2811 courts of the Commonwealth ~~pursuant to § 16.1-278.8~~. The Department shall establish, staff and
 2812 maintain facilities for the rehabilitation, training and confinement of such ~~children~~ *juveniles*. The
 2813 Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or
 2814 counties maintaining places of detention for ~~children~~ *juveniles*, for the temporary care of such ~~children~~
 2815 *juveniles*.

2816 B. *The Department may establish, or contract with private entities, political subdivisions or*
 2817 *commissions, to establish juvenile boot camps. The Board shall prescribe standards for the development,*
 2818 *implementation and operation of the boot camps with highly structured components including, but not*
 2819 *limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less*
 2820 *than six months of intensive aftercare. No private entity contracting or operating a boot camp on behalf*
 2821 *of the Department shall claim the defense of sovereign immunity or defenses under the Virginia Tort*
 2822 *Claims Act (§ 8.01-195.1 et seq.). No contract to establish a juvenile boot camp shall be executed by the*
 2823 *Department nor shall any funds be expended for the contract unless an appropriation has been*
 2824 *expressly approved as is otherwise provided by law.*

2825 C. *The Department may by mutual agreement with a locality or localities and, pursuant to standards*
 2826 *promulgated pursuant to § 16.1-309.9, establish detention homes for use by a locality or localities for*
 2827 *pre-trial and post-dispositional detention pursuant to §§ 16.1-248.1 and 16.1-284.1. The Department*

may collect by mutual agreement with a locality or localities and from any locality of this Commonwealth from which a juvenile is placed in such a detention home, the reasonable cost of maintaining such juvenile in such facility and a portion of the cost of construction of such facility. Such agreements shall be subject to approval by the General Assembly in the general appropriation act.

§ 66-24. Community group homes and other residential facilities for certain juveniles; personnel.

The Department is authorized to establish and maintain such a system of community group homes or other residential care facilities as the Department may from time to time acquire, construct, contract for or rent for the care of ~~children~~ juveniles in direct state care, pending development of more permanent placement plans. Such placement plans shall consider adequate care and treatment, and suitable education, training and employment for such ~~children~~ juveniles, as is appropriate. The Department is further authorized to employ necessary personnel for such facilities or to contract with private entities for their operation. The Board shall adopt such regulations for the operation of such facilities as it may deem appropriate.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$5,382,720.

3. That beginning July 1, 1996, the magistrate training program established by the Committee on District Courts pursuant to § 19.2-38 shall include a component addressing the issuance of warrants and detention orders in juvenile courts.

4. That beginning July 1, 1996, the circuit court judge training program established by the Committee on District Courts pursuant to § 19.2-38 shall include a mandatory component addressing juvenile court dispositional options for juveniles tried in circuit courts.

5. That the Department of Youth and Family Services shall conduct a three-year follow-up of juveniles sentenced to Boot Camps established pursuant to § 66-13 to determine the effectiveness of this sentencing option. Beginning October 1, 1996, and each year thereafter, the Department shall report the findings of the evaluations to the chairmen of Health, Welfare and Institutions, Senate Education and Health, House Appropriations Committee, Senate Finance, Rehabilitation and Social Services and Courts of Justice.

6. That no later than October 1, 1996, the Board of Youth and Family Services shall establish length-of-stay guidelines for juveniles indeterminately committed to the Department. By November 1, 1996, and annually thereafter, the Department shall provide copies of the guidelines and the estimated impact on juvenile correctional facility bed space needs to the General Assembly.

ENGROSSED

HB251EH1