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## SENATE BILL NO. 40

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on February 7, 1996)

(Patron Prior to Substitute—Senator Norment)

A *BILL to amend and reenact §§ 16.1-248.1, 16.1-249, 16.1-284, 16.1-284.1, 16.1-290, 19.2-311, 22.1-277.1, 66-13, and 66-24 of the Code of Virginia and §§ 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-278.8, and 16.1-293 of the Code of Virginia, as they are currently effective and as they may become effective, relating to disposition of juvenile cases; boot camps.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-248.1, 16.1-249, 16.1-284, 16.1-284.1, 16.1-290, 19.2-311, 22.1-277.1, 66-13, and 66-24 of the Code of Virginia and §§ 16.1-255, 16.1-256, 16.1-260, 16.1-263, 16.1-278.8, and 16.1-293 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted as follows:**

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

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

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

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

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

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

5. Neither the *child's juvenile's* parent or guardian nor any other person able to provide proper

supervision can arrive to assume custody within a reasonable time; or

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

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

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

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

§ 16.1-249. Places of confinement for juveniles.

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

1. An approved foster home or a home otherwise authorized by law to provide such care;
2. A facility operated by a licensed child welfare agency;
3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;

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

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

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

D. When a case is transferred to the circuit court in accordance with the provisions of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, the juvenile, if in confinement, may be transferred to a jail or other facility for the detention of adults and need no longer be entirely separate and removed from adults.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the ~~child~~ *juvenile* 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~~ *juvenile* 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 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 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 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 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

183 receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a  
184 copy of the petition or motion together with notice of the court date to the Division of Child Support  
185 Enforcement.

186 B. When the court service unit of any court receives a complaint alleging facts which may be  
187 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake  
188 officer, may proceed informally to make such adjustment as is practicable without the filing of a petition  
189 or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to  
190 establish probable cause for the issuance of the petition. The intake officer shall accept and file a  
191 petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of  
192 controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support  
193 for any person in violation of law, or (iii) a child or such child's parent, guardian, legal custodian or  
194 other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are  
195 required by law. If any such complainant does not file a petition, the intake officer may file it. In cases  
196 in which a child is alleged to be abused, neglected, in need of services, in need of supervision or  
197 delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a  
198 petition will not be in the best interest of the family or ~~child~~ *juvenile* or that the matter may be  
199 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a  
200 petition.

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

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

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

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

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

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

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

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

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

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

237 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter  
238 7 of Title 18.2;

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

240 8. Burglary, pursuant to § 18.2-89.

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

244 The information provided to a division superintendent pursuant to this section may be disclosed only

as provided in § 16.1-305.2.

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

§ 16.1-260. (Delayed effective date) 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 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. In addition, all cases for 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 shall be filed directly with the clerk. 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. 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. 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

306 *juvenile's* parent, guardian, legal custodian or other person standing in loco parentis is entitled to  
307 treatment, rehabilitation or other services which are required by law. If any such complainant does not  
308 file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected,  
309 in need of services, in need of supervision or delinquent, if the intake officer believes that probable  
310 cause does not exist, or that the authorization of a petition will not be in the best interest of the family  
311 or ~~child~~ *juvenile* or that the matter may be effectively dealt with by some agency other than the court,  
312 he may refuse to authorize the filing of a petition.

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

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

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

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

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

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

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

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

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

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

349 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter  
350 7 of Title 18.2;

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

352 8. Burglary, pursuant to § 18.2-89.

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

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

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

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

366 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision  
367 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. 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.

§ 16.1-263. 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 support 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. *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.* 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

429 and the time and place for the hearing.

430 B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy  
431 of the petition shall accompany each summons for the initial proceedings. Notice of subsequent  
432 proceedings shall be provided to all parties in interest. In all cases where a party is represented by  
433 counsel and counsel has been provided with a copy of the petition and due notice as to time, date and  
434 place of the hearing, such action shall be deemed due notice to such party, unless such counsel has  
435 notified the court that he no longer represents such party.

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

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

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

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

448 § 16.1-278.8. Delinquent juveniles.

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

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

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

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

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

461 *4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a*  
462 *Boot Camp Program established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for*  
463 *commitment to the Department, (ii) has not previously been and is not currently being adjudicated*  
464 *delinquent or found guilty of an offense for which transfer for trial in the circuit court would be*  
465 *authorized pursuant to subsection B or C of § 16.1-269.1 and (iii) has not previously been committed to*  
466 *the Department or attended a Boot Camp Program. Upon the juvenile's withdrawal, removal or refusal*  
467 *to comply with the terms and conditions of participation in the program, he shall be brought before the*  
468 *court for a hearing at which the court may impose any other disposition as authorized by this section*  
469 *which could have been imposed at the time the juvenile was placed in the custody of the Department;*

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

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

480 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe,  
481 *which may include, but are not limited to, compliance with any education plan prepared pursuant to*  
482 *§ 22.1-277.1;*

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

484 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile  
485 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is  
486 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such  
487 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of  
488 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who  
489 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to  
490 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 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

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

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

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

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

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

§ 16.1-278.8. (Delayed effective date) 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 family 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

552 court may order with respect to the juvenile and his parent;

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

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

559 *4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a*  
560 *Boot Camp Program established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for*  
561 *commitment to the Department, (ii) has not previously been and is not currently being adjudicated*  
562 *delinquent or found guilty of an offense for which transfer for trial in the circuit court would be*  
563 *authorized pursuant to subsection B or C of § 16.1-269.1 and (iii) has not previously been committed to*  
564 *the Department or attended a Boot Camp Program. Upon the juvenile's withdrawal, removal or refusal*  
565 *to comply with the terms and conditions of participation in the program, he shall be brought before the*  
566 *court for a hearing at which the court may impose any other disposition as authorized by this section*  
567 *which could have been imposed at the time the juvenile was placed in the custody of the Department;*

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

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

578 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe,  
579 *which may include, but are not limited to, compliance with any education plan prepared pursuant to*  
580 *§ 22.1-277.1;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 16.1-284.1. Placement in secure local facility.

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

B. If a ~~child~~ juvenile fourteen years of age or older is found to have committed an offense which if committed by an adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled within the immediately preceding twelve months pursuant to § 16.1-273 that the ~~child~~ juvenile has been adjudged a

delinquent within the immediately preceding twelve months and has failed to respond to past treatment efforts, (ii) that the ~~child~~ juvenile is amenable to continued treatment efforts in the community, and (iii) the interests of the community and the ~~child~~ juvenile require that the ~~child~~ juvenile be placed under legal restraint or discipline, based on the nature of the present offense, the nature of the ~~child's~~ juvenile's prior delinquency record, and the nature of the past treatment efforts, then the court may order the ~~child~~ juvenile committed to the Department, but suspend such commitment and order the ~~child~~ juvenile confined in a detention home or other secure facility for juveniles for a period not to exceed six months, inclusive of time served in detention while awaiting disposition, for a single offense or for multiple offenses. In suspending the commitment to the Department as provided for in this subsection, the court shall specify conditions for the ~~child's~~ juvenile's participation in one or more community treatment programs as may be appropriate for the ~~child's~~ juvenile's rehabilitation.

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~~. *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.

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

A. Whenever legal custody of a juvenile is vested by the court in someone other than his parents, or whenever a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, *is placed in temporary custody of the Department pursuant to subdivision 4a of § 16.1-278.8 or is 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.

*If a juvenile or his family is receiving benefits from any state or federal agency, the court shall forward notice of the commitment and the terms of any reimbursement ordered pursuant to this subsection to the agency providing the benefits.*

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 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. Violations of parole shall be heard by the court pursuant to § 16.1-291. *The conditions of the re-enrollment plan may be included in the conditions of parole.* The director of the supervising agency may approve termination of parole supervision.

In the event it is determined by the family 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.

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

A. The judge, after a finding of guilt, when fixing punishment in those cases specifically enumerated in subsection B of this section, may, in his discretion, in lieu of imposing any other penalty provided by law and, with consent of the person convicted, commit such person for a period of four years, which

798 commitment shall be indeterminate in character. Subject to the provisions of subsection C hereof, such  
799 persons shall be committed to the Department of Corrections for initial confinement for a period not to  
800 exceed three years. Such confinement shall be followed by at least one year of supervisory parole,  
801 conditioned on good behavior, but such parole period shall not, in any case, continue beyond the  
802 four-year period. The sentence of indeterminate commitment and eligibility for continuous evaluation  
803 and parole under § 19.2-313 shall remain in effect but eligibility for use of programs and facilities  
804 specified in § 53.1-64 shall lapse if such person (i) voluntarily withdraws from the youthful offender  
805 program, (ii) exhibits intractable behavior as defined in § 53.1-66, or (iii) is convicted of a second  
806 criminal offense which is a felony. A sentence imposed for any second criminal offense shall run  
807 consecutively with the indeterminate sentence.

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

810 1. Committed the offense of which convicted after becoming eighteen but before becoming  
811 twenty-one years of age; ~~or was a juvenile certified for trial as an adult under the provisions of~~  
812 ~~§ 16.1-269.6 or § 16.1-272;~~

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

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

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

824 § 22.1-277.1. Disciplinary authority of school boards under certain circumstances.

825 A school board may, in accordance with the procedures set forth in § 22.1-277, require any student  
826 who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of  
827 school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found  
828 guilty or not innocent of a crime which resulted in or could have resulted in injury to others, or of a  
829 crime for which the disposition ordered by a court is required to be disclosed to the superintendent of  
830 the school division pursuant to § 16.1-305.1; or (iii) expelled pursuant to § 22.1-277.01, to attend an  
831 alternative education program, including, but not limited to, night school, adult education, or any other  
832 educational program designed to offer instruction to students for whom the regular program of  
833 instruction may be inappropriate. A school board may require such student to attend such programs  
834 regardless of where the crime occurred.

835 *When a superintendent of a local school division receives notice of the filing of a petition from the*  
836 *court or court services unit in accordance with § 16.1-260 or regarding the completion of a juvenile's*  
837 *social history, the superintendent shall identify the juvenile's educational placement services and*  
838 *progress and inform the court. When a superintendent receives notice of a juvenile's return to the*  
839 *community following commitment or sentence, the superintendent or his designee shall participate in the*  
840 *development of a re-enrollment plan in compliance with the regulations for re-enrollment according to*  
841 *§ 22.1-17.1.*

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

844 As used in this section, the term "charged" means that a petition or warrant has been filed or is  
845 pending against a pupil.

846 § 66-13. Authority of Department as to juveniles committed to it; establishment of facilities;  
847 arrangements for temporary care.

848 The Department is authorized and empowered to receive ~~children~~ juveniles committed to it by the  
849 courts of the Commonwealth pursuant to § 16.1-278.8. The Department shall establish, staff and  
850 maintain facilities for the rehabilitation, training and confinement of such ~~children~~ juveniles. The  
851 Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or  
852 counties maintaining places of detention for ~~children~~ juveniles, for the temporary care of such  
853 ~~children~~ juveniles.

854 *The Department shall establish, or contract with private entities, localities or commissions, to*  
855 *establish juvenile boot camps. The Board shall prescribe standards for the development, implementation*  
856 *and operation of the boot camps with highly structured components including, but not limited to,*  
857 *military style drill and ceremony, physical labor and rigid discipline. The Department of Correctional*  
858 *Education shall establish, staff, and maintain education for such juveniles in accordance with Chapter*  
859 *18 (§ 22.1-339 et seq.) of Title 22.1.*

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