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## SENATE BILL NO. 44

## 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 Earley)

A *BILL to amend and reenact §§ 9-169, 16.1-227, 16.1-249, 16.1-274.1, 16.1-285, 16.1-285.1, 16.1-285.2, 16.1-303, 16.1-305.1, 16.1-308, 19.2-388, 19.2-389, 19.2-390, 19.2-392.01, 53.1-66, 66-10, and 66-13 of the Code of Virginia, and §§ 16.1-228, 16.1-241, 16.1-260, 16.1-269.1, 16.1-269.3, 16.1-269.4, 16.1-269.6, 16.1-272, 16.1-299, 16.1-301, 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; to amend the Code of Virginia by adding sections numbered 16.1-248.2, 16.1-299.1, 16.1-302.1 and 53.1-63.1; and to repeal §§ 16.1-309.1 and 19.2-389.1 of the Code of Virginia, 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 §§ 9-169, 16.1-227, 16.1-249, 16.1-274.1, 16.1-285, 16.1-285.1, 16.1-285.2, 16.1-303, 16.1-305.1, 16.1-308, 19.2-388, 19.2-389, 19.2-390, 19.2-392.01, 53.1-66, 66-10, and 66-13 of the Code of Virginia, and §§ 16.1-228, 16.1-241, 16.1-260, 16.1-269.1, 16.1-269.3, 16.1-269.4, 16.1-269.6, 16.1-272, 16.1-299, 16.1-301, 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 and 53.1-63.1 as follows:

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

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

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

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

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

8. "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term does not include access to the information by officers or employees of a criminal

justice agency maintaining the information who have both a need and right to know the information.

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

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

§ 16.1-227. Purpose and intent.

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

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

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

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

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

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

§ 16.1-228. 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 alleged to have been committed or 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.

"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 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile 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 then 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

183 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or  
184 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board  
185 pursuant to § 16.1-293.

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

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

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

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

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

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

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

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

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

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

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

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

221 "*Violent juvenile felony*" means any of the delinquent acts enumerated in subsection B or C of  
222 § 16.1-269.1 when committed by a juvenile fourteen years of age or older.

223 § 16.1-228. (Delayed effective date) Definitions.

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

225 "Abused or neglected child" means any child:

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

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

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

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

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

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

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

244 "*Ancillary crime*" or "*ancillary charge*" means any delinquent act committed or alleged to have been

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.

"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 or regional 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 be limited to 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. 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 any 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 be limited to 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. 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 a lesser offense 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

429 or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not  
430 exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

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

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

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

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

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

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

456 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or  
457 § 16.1-279.1.

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

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

462 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13  
463 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered  
464 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the  
465 juvenile and domestic relations district court.

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

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

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

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

472 U. Petitions filed in connection with parental placement adoption consent hearings, pursuant to  
473 § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within  
474 ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest  
475 possible disposition.

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

478 Notwithstanding any other provision of law no fees shall be charged by a sheriff for the service of  
479 any process in a proceeding pursuant to subdivision 3 of subsection A or subsections M or R of this  
480 section.

481 § 16.1-241. (Delayed effective date) Jurisdiction.

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

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

490 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 be limited to 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. 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 any 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 be limited to 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. 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 juvenile 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;

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

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

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

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

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

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

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

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

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

584 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or  
585 § 16.1-279.1.

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

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

590 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13  
591 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered  
592 by a family court upon the filing of a certified copy of such order in the family court.

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

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

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

596 T. Suits for separate maintenance.

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

598 V. Petitions for adoption.

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

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

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

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

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

608 BB. Petitions filed in connection with parental placement adoption consent hearings, pursuant to  
609 § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within  
610 ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest  
611 possible disposition.

612 The ages specified in this law refer to the age of the child at the time of the acts complained of in  
613 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 M or R of this section.

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

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

§ 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 *subsection A* 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, *or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1-269.1*, 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 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.

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~~ *juvenile correction facility* 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

675 herewith.

676 § 16.1-260. Intake; petition; investigation.

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

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

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

705 *A petition alleging that the juvenile has committed a violent juvenile felony or a petition alleging*  
706 *that a juvenile is in need of supervision or delinquent, shall be filed with the court if that juvenile has*  
707 *previously been the subject of a complaint alleging that he was in need of supervision or delinquent.*

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

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

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

729 *€ D. Prior to the filing of any petition alleging that a juvenile is in need of supervision, the matter*  
730 *shall be reviewed by an intake officer who shall determine whether the petitioner and the juvenile*  
731 *alleged to be in need of supervision have utilized or attempted to utilize treatment and services available*  
732 *in the community and have exhausted all appropriate nonjudicial remedies which are available to them.*  
733 *When the intake officer determines that the parties have not attempted to utilize available treatment or*  
734 *services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer*  
735 *the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment*  
736 *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 3 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.

*E+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, pursuant to § 18.2-89.

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 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

798 on a summons issued by the officer investigating the violation in the same manner as provided by law  
799 for adults provided that notice of the summons to appear is mailed by the investigating officer within  
800 five days of the issuance of the summons to a parent or legal guardian of the juvenile.

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

803 § 16.1-260. (Delayed effective date) Intake; petition; investigation.

804 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of  
805 a petition, except as provided in subsection ~~FH~~ of this section and in § 16.1-259. The form and content  
806 of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support  
807 services from the Department of Social Services prior to filing a petition seeking support for a ~~child~~  
808 *juvenile*. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility  
809 of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a  
810 petition on his own motion with the clerk, (ii) the Department of Social Services may file support  
811 petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his  
812 client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in  
813 need of services, in need of supervision or delinquent. In addition, all cases for divorce, annulment or  
814 affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption,  
815 change of name, amendment of a record of birth and judicial review of school board actions and of  
816 hearing officer decisions shall be filed directly with the clerk. Complaints alleging abuse or neglect of a  
817 child shall be referred initially to the local department of public welfare or social services in accordance  
818 with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent  
819 pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the  
820 petition or motion is filed shall inquire whether the petitioner is receiving child support services or  
821 public assistance. No individual who is receiving support services or public assistance shall be denied  
822 the right to file a petition or motion to establish, modify or enforce an order for support of a child. If  
823 the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance  
824 of process, shall forward a copy of the petition or motion together with notice of the court date to the  
825 Division of Child Support Enforcement.

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

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

835 *A petition alleging that the juvenile has committed a violent juvenile felony or a petition alleging*  
836 *that a juvenile is in need of supervision or delinquent, shall be filed with the court if that juvenile has*  
837 *previously been the subject of a complaint alleging that he was in need of supervision or delinquent.*

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

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

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

859 *ED.* Prior to the filing of any petition alleging that a juvenile is in need of supervision, the matter

shall be reviewed by an intake officer who shall determine whether the petitioner and the juvenile 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.

**DE.** 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 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

**EF.** 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.

**EG.** 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, pursuant to § 18.2-89.

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.

**FH.** 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

921 blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2,  
922 the provisions of these sections shall be followed except that the magistrate shall authorize execution of  
923 the warrant as a summons. The summons shall be served on a parent or legal guardian and the child  
924 juvenile, and a copy of the summons shall be forwarded to the court in which the violation of  
925 § 18.2-266 or § 29.1-738 is to be tried.

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

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

934 *GI.* Failure to comply with the procedures set forth in this section shall not divest the family court of  
935 the jurisdiction granted it in § 16.1-241.

936 § 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.

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

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

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

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

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

955 a. The juvenile's age;

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

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

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

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

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

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

976 h. The juvenile's school record and education;

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

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

980 B. The court may hold a transfer hearing and certify the juvenile for transfer to the appropriate  
981 circuit court without making the finding required by subdivision A 4 if *The juvenile court shall conduct*  
982 *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, 18.2-33 or § 18.2-40, aggravated malicious wounding (§ 18.2-51.2), rape (§ 18.2-67), forcible sodomy (§ 18.2-67.1) or object sexual penetration (§ 18.2-67.2).

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with 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, 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, and all ancillary charges, to the grand jury. Certification shall divest the juvenile 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 charge is dismissed in the juvenile court or by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court for the violent juvenile felony and any ancillary charges. Return of an indictment by the grand jury upon any such charges shall divest the juvenile court of jurisdiction as to those charges.

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 juvenile court. If an indictment is terminated prior to jeopardy attaching in the circuit court, 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. If 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 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

1044 treatment and rehabilitation;

1045 d. The appropriateness and availability of the services and dispositional alternatives in both the  
1046 criminal justice and juvenile justice systems for dealing with the juvenile's problems;

1047 e. The record and previous history of the juvenile in this or other ~~jurisdiction~~ *jurisdictions*, including  
1048 (i) the number and nature of previous contacts with family or circuit courts, (ii) the number and nature  
1049 of prior periods of probation, (iii) the number and nature of prior commitments to learning centers, (iv)  
1050 the number and nature of previous residential and community-based treatments, (v) whether previous  
1051 adjudications and commitments were for delinquent acts that involved the infliction of serious bodily  
1052 injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

1053 f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional  
1054 entity in this or any other jurisdiction;

1055 g. The extent, if any, of the juvenile's degree of mental retardation or mental illness;

1056 h. The juvenile's school record and education;

1057 i. The juvenile's mental and emotional physical maturity; and

1058 j. The juvenile's physical condition and physical maturity.

1059 No transfer decision shall be precluded or reversed on the grounds that the court failed to consider  
1060 any of the factors specified in subdivision A 4 of § 16.1-269.1.

1061 B. The court may hold a transfer hearing and certify the juvenile for transfer to the appropriate  
1062 circuit court without making the finding required by subdivision A 4 if *The family court shall conduct*  
1063 *a preliminary hearing whenever a juvenile fourteen years of age or older is charged with:*

1064 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  
1065 sixteen years of age or older, a Class 3 felony violation of Chapter 4 (~~§ 18.2-30 et seq.~~) of Title 18.2  
1066 for: (i) murder under Article 1; (ii) mob-related felony under Article 2; (iii) kidnapping or abduction  
1067 under Article 3; or (iv) assault or bodily wounding under Article 4; or

1068 2. Any unclassified felony violation of Chapter 4 (~~§ 18.2-30 et seq.~~) of Title 18.2 which carries a  
1069 maximum penalty of imprisonment for life or a term of imprisonment of forty years if committed by an  
1070 adult; a Class 1 felony (§ 18.2-31), murder in violation of § 18.2-32, 18.2-33 or § 18.2-40, aggravated  
1071 malicious wounding (§ 18.2-51.2), rape (§ 18.2-67), forcible sodomy (§ 18.2-67.1) or object sexual  
1072 penetration (§ 18.2-67.2).

1073 C. *The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age*  
1074 *or older is charged with felonious injury by mob in violation of § 18.2-41, abduction in violation of*  
1075 *§ 18.2-48, malicious wounding in violation of § 18.2-51, malicious wounding of a law-enforcement*  
1076 *officer in violation of § 18.2-51.1, felonious poisoning in violation of § 18.2-54.1, adulteration of*  
1077 *products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or carjacking in violation of*  
1078 *§ 18.2-58.1, provided the attorney for the Commonwealth makes a written motion requesting such a*  
1079 *hearing. If the attorney for the Commonwealth elects not to make such a motion, or if he elects to*  
1080 *withdraw the motion prior to certification of the charge to the grand jury, he may proceed as provided*  
1081 *in subsection A.*

1082 D. *Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the*  
1083 *family court shall certify the charge, and all ancillary charges, to the grand jury. Certification shall*  
1084 *divest the family court of jurisdiction over the charge and any ancillary charges. If the court does not*  
1085 *find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in*  
1086 *the petition or if the petition is terminated by dismissal in the family court or by nolle prosequi in the*  
1087 *family court, the attorney for the Commonwealth may seek a direct indictment in the circuit court.*

1088 If the court finds that the juvenile was not fourteen years of age or older at the time of the alleged  
1089 commission of the offense or that the conditions specified in subdivision 1, 2, or 3 of subsection A have  
1090 not been met, the case shall proceed as otherwise provided for by law.

1091 E. *An indictment in the circuit court cures any error or defect in any proceeding held in the family*  
1092 *court. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding*  
1093 *by seeking a subsequent indictment.*

1094 § 16.1-269.3. Retention by juvenile court; appeal by Commonwealth.

1095 A. If ~~the~~ a case is not certified or transferred following a probable cause or transfer hearing in the  
1096 juvenile court, the judge who conducted the hearing shall not, over the objection of any interested party,  
1097 preside at the adjudicatory hearing on the petition, but rather it shall be presided over by another judge  
1098 of that court.

1099 B. If the attorney for the Commonwealth deems it to be in the public interest, and the juvenile is  
1100 fourteen years of age or older and is charged with an offense which, if committed by an adult, would be  
1101 punishable by death or confinement in a state correctional facility for life or a maximum period of  
1102 twenty years or more, he may, within ten days after the juvenile court's final decision to retain the case  
1103 in accordance with subsection A of § 16.1-269.1, file a notice of appeal of the decision to the  
1104 appropriate circuit court. A copy of such notice shall be furnished at the same time to the counsel for  
1105 the juvenile.

§ 16.1-269.3. Retention of case by family court.; appeal by Commonwealth .

A. 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.

B. 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, 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) 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.

1167 § 16.1-269.6. (Delayed effective date) Circuit court hearing; termination of family court jurisdiction;  
1168 objections and appeals.

1169 A. Within seven days after receipt of notice of an appeal from the transfer decision *pursuant to*  
1170 *subsection A of § 16.1-269.1* by either the attorney for the Commonwealth or the juvenile, or if an  
1171 appeal to *such* a decision to transfer is not noted, upon expiration of the time in which to note appeal,  
1172 the clerk of the family court shall forward to the circuit court all papers connected with the case,  
1173 including any report required by subsection B of § 16.1-269.2 as well as a written court order setting  
1174 forth the reasons for the family court's decision. The clerk shall forward copies of the order to the  
1175 attorney for the Commonwealth and other counsel of record.

1176 B. The circuit court shall, within a reasonable time after receipt of the case from the family court  
1177 *pursuant to subsection A of § 16.1-269.1*, (i) examine all such papers, reports and orders; (ii) if either  
1178 the juvenile or the attorney for the Commonwealth has appealed the transfer decision, conduct a hearing  
1179 to take further evidence on the issue of transfer, to determine if there has been substantial compliance  
1180 with *subsection A of § 16.1-269.1*, but without redetermining whether the family court had sufficient  
1181 evidence to find probable cause; and (iii) enter an order either remanding the case to the family court or  
1182 advising the attorney for the Commonwealth that he may seek an indictment. Upon advising the attorney  
1183 for the Commonwealth that he may seek an indictment, the circuit court shall issue an order transferring  
1184 the juvenile from the juvenile detention facility to an appropriate local correctional facility where the  
1185 juvenile need no longer be entirely separate and removed from adults, unless, upon motion of counsel,  
1186 good cause is shown for placement of the juvenile pursuant to the limitations of subdivision E (i), (ii),  
1187 and (iii) of § 16.1-249. *However, in cases where a charge has been certified by the family court to the*  
1188 *grand jury pursuant to subsection B or C of § 16.1-269.1, the attorney for the Commonwealth may seek*  
1189 *an indictment upon such charge without obtaining an order of the circuit court advising him that he*  
1190 *may do so.*

1191 C. The circuit court order advising the attorney for the Commonwealth that he may seek an  
1192 indictment shall divest the family court of its jurisdiction over the case as well as the family court's  
1193 jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme  
1194 giving rise to the charge for which the juvenile has been transferred. In addition, upon conviction of the  
1195 juvenile following transfer and trial as an adult, the circuit court shall issue an order terminating the  
1196 family court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been  
1197 committed by such juvenile and with respect to any pending allegations of delinquency which have not  
1198 been disposed of by the family court at the time of the criminal conviction. Upon receipt of the order  
1199 terminating the family court's jurisdiction over the juvenile, the clerk of the family court shall forward  
1200 any pending petitions of delinquency for proceedings in the appropriate general district court.

1201 D. The judge of the circuit court who reviewed the case after receipt from the family court shall not,  
1202 over the objection of any interested party, preside over the trial of such charge or charges.

1203 E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not  
1204 made before arraignment.

1205 F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or  
1206 § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included  
1207 as applying to the provisions of § 19.2-243.

1208 § 16.1-272. Power of circuit court over juvenile offender.

1209 A. ~~In the hearing and disposition of felony cases properly before a circuit court having criminal~~  
1210 ~~jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a~~  
1211 ~~trial by jury on the issue of guilt or innocence and upon a finding of guilty, In any case in which a~~  
1212 ~~juvenile is indicted and the matter is to be tried in the circuit court, the offense for which he is indicted~~  
1213 ~~and all ancillary charges shall be tried in the same manner as provided for the trial of adults, except as~~  
1214 ~~otherwise provided with regard to sentencing. Upon a finding of guilty of any charge other than capital~~  
1215 ~~murder, the court shall fix the sentence without the intervention of a jury.~~

1216 *If a juvenile is convicted of a violent juvenile felony, the sentence for that offense and for all*  
1217 *ancillary crimes shall be fixed in the same manner as provided for adults, but the sentence may be*  
1218 *suspended conditioned upon successful completion of the terms and conditions of commitment to the*  
1219 *Department of Youth and Family Services. If the juvenile is convicted of any other felony, the court may*  
1220 *sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or*  
1221 *may in its discretion deal with the juvenile in the manner prescribed in this law chapter for the hearing*  
1222 *and disposition of cases in the juvenile court, including, but not limited to, commitment under*  
1223 *§ 16.1-285.1. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court*  
1224 *shall deal with the juvenile in the manner prescribed by law for the disposition of a delinquency case in*  
1225 *the district court.*

1226 B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile  
1227 court and places the ~~child~~ juvenile on probation, the ~~child~~ juvenile may be supervised by a juvenile  
1228 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 crimes 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 of commitment to the Department of Youth and Family Services. 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 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 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.

§ 16.1-285. 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 center~~ juvenile correctional facility 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 centers~~ *juvenile correctional facilities*, (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 length of stay based on treatment goals enumerated in the social history report.

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

C. In ordering commitment pursuant to this section, the court shall specify a period of commitment not to exceed seven years or the juvenile's twenty-first birthday, whichever shall occur first.

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

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

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

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

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

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

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

D. At the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to the Department for completion of the original determinate period of commitment or such lesser time as the court may order or (ii) release of the juvenile under such terms and conditions as the court may prescribe. In making a determination under this section, the court shall consider (i) the experiences and character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile 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.

§ 16.1-299. 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 juvenile 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 juvenile court on forms provided by the Central Criminal Records Exchange.*

4. 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~~ 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.

*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*



1413 *photographs be destroyed within sixty days of the date of disposition of the case.*

1414 § 16.1-299. (Delayed effective date) Fingerprints and photographs of juveniles.

1415 A. Fingerprints of a juvenile fourteen years of age or older who is charged with a delinquent act  
1416 which would be a felony if committed by an adult shall be taken and filed with the juvenile court by  
1417 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs  
1418 may also be taken and filed by local law-enforcement officers. Fingerprints of a juvenile thirteen years  
1419 of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a  
1420 firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in  
1421 § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy  
1422 as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny  
1423 as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes  
1424 as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned  
1425 felonies as provided in § 18.2-25 or § 18.2-26 shall be taken and filed with the juvenile court by  
1426 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs  
1427 may also be taken and filed by local law-enforcement officers.

1428 B. A juvenile may be fingerprinted and photographed regardless of age or offense if he has been  
1429 taken into custody for and charged with a violation of law, and a law-enforcement officer has  
1430 determined that there is probable cause to believe that latent fingerprints found during the investigation  
1431 of an offense are those of such juvenile.

1432 C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed  
1433 of as follows:

1434 1. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in  
1435 connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all  
1436 photographs shall be destroyed sixty days after fingerprints were taken.

1437 2. If the family court or the circuit court, pursuant to a transfer, waiver or appeal, finds a juvenile  
1438 not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all  
1439 photographs shall be destroyed within sixty days of such finding. However, all fingerprints and  
1440 photographs of a juvenile who is less than thirteen years of age and who is found guilty of a delinquent  
1441 act shall also be destroyed.

1442 3. If the court finds that a juvenile thirteen years of age or older has committed a delinquent act, the  
1443 fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints  
1444 may be entered into any police department's computer system by identification number or by any other  
1445 method which insures the confidentiality of the juvenile's name. All duly constituted police authorities  
1446 having the power of arrest may take fingerprints and photographs of any juvenile who is taken into  
1447 custody and charged with a delinquent act an arrest for which, if committed by an adult, is required to  
1448 be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390.  
1449 Whenever fingerprints are taken, they shall be maintained separately from adult records and shall be  
1450 filed with the family court on forms provided by the Central Criminal Records Exchange.

1451 4. If a juvenile fourteen years of age or older is ~~(i) certified to~~ tried in the circuit court pursuant to  
1452 Article 7 (§ 16.1-269.1 et seq.) of this chapter and is adjudicated delinquent ~~or~~ and is found guilty as  
1453 an adult of the an offense charged for which a report to the Central Criminal Records Exchange is  
1454 required by subsection C of § 19.2-390 or ~~(ii) if a juvenile of any age is adjudicated delinquent or~~  
1455 found guilty in family court of any offense which would be a felony if committed by an adult or any  
1456 other offense for which a report to the Central Criminal Records Exchange is required by subsection C  
1457 of § 19.2-390 if the offense were committed by an adult, or if a juvenile thirteen years of age or older is  
1458 found guilty of any of the offenses specified in subsection A of this section or an attempt to commit  
1459 any such offense in a juvenile court and is adjudicated delinquent, copies of his fingerprints and a report  
1460 of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court  
1461 which heard the case.

1462 *If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in*  
1463 *connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all*  
1464 *photographs shall be destroyed sixty days after fingerprints were taken. In cases resulting in a*  
1465 *disposition for which fingerprints are not required to be forwarded to the Central Criminal Records*  
1466 *Exchange, the court shall order that the fingerprint card, all copies of the fingerprints and all*  
1467 *photographs be destroyed within sixty days of the date of disposition of the case.*

1468 § 16.1-299.1. Blood sample required for DNA analysis upon conviction or adjudication of felony.

1469 A juvenile convicted of a felony or adjudicated delinquent on the basis of an act which would be a  
1470 felony if committed by an adult shall have a sample of his blood taken for DNA analysis provided (i)  
1471 the juvenile was fourteen years of age or older at the time of the commission of the offense or (ii) the  
1472 juvenile, of any age, is committed to and actually received by the Department of Youth and Family  
1473 services for a term of confinement. The provisions of Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of  
1474 Title 19.2 shall apply to all persons and all blood samples taken as required by this section, mutadis



1475 *mutandis.*

1476 § 16.1-301. Confidentiality of law-enforcement records.

1477 A. The court shall require all law-enforcement agencies to take special precautions to ensure that  
1478 law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized  
1479 person. The police departments of the cities of the Commonwealth, and the police departments or  
1480 sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other  
1481 than violations of motor vehicle laws committed by juveniles. Unless a charge of delinquency is  
1482 transferred for criminal prosecution in the circuit court or the court otherwise orders disclosure in the  
1483 interests of the juvenile or of national security, such records with respect to such juvenile shall not be  
1484 open to public inspection nor their contents disclosed to the public.

1485 B. Inspection of such records shall be permitted only by the following:

1486 1. A court having the juvenile currently before it in any proceeding;

1487 2. The officers of public and nongovernmental institutions or agencies to which the juvenile is  
1488 currently committed, and those responsible for his supervision after release;

1489 3. Any other person, agency, or institution, by order of the court, having a legitimate interest in the  
1490 case or in the work of the law-enforcement agency;

1491 4. Law-enforcement officers of other jurisdictions, by order of the court, when necessary for the  
1492 discharge of their current official duties;

1493 5. The probation and other professional staff of a court in which the juvenile is subsequently  
1494 convicted of a criminal offense for the purpose of a presentence report or other dispositional  
1495 proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or  
1496 by a parole board in considering his parole or discharge or in exercising supervision over him;

1497 6. The juvenile, parent, guardian or other custodian and counsel for the juvenile by order of the  
1498 court; and

1499 7. As provided in §§ 19.2-389.1 and 19.2-390.

1500 C. The police department of the cities and towns and the police departments or sheriffs of the  
1501 counties may release, upon request to one another and to state and federal law-enforcement agencies,  
1502 current information on juvenile arrests. ~~The information exchanged shall be limited to name, address,~~  
1503 ~~physical description, date of arrest, and the charge for which the arrest was made.~~ The information  
1504 exchanged shall be used by the receiving agency for current investigation purposes only and shall not  
1505 result in the creation of new files or records on individual juveniles on the part of the receiving agency.

1506 D. Nothing in this section shall prohibit the exchange of *law-enforcement* or other criminal  
1507 investigative or intelligence information among law-enforcement agencies.

1508 § 16.1-302. Dockets, indices and order books; when hearings and records private; right to public  
1509 hearing; presence of juvenile in court.

1510 Every juvenile court shall keep a separate docket of cases arising under this law.

1511 Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate order  
1512 book or file for cases on appeal from the juvenile court except: (i) cases involving support pursuant to  
1513 § 20-61 or subdivisions A 3, F or L of § 16.1-241; (ii) cases involving criminal offenses committed by  
1514 adults which are commenced on a warrant or a summons as described in Title 19.2; and (iii) cases  
1515 involving civil commitments of adults pursuant to Title 37.1. Such cases shall be docketed on the  
1516 appropriate docket and the orders in such cases shall be entered in the appropriate order book as used  
1517 with similar cases commenced in circuit court.

1518 ~~The general public shall be excluded from all juvenile court hearings and only such persons admitted~~  
1519 ~~as the judge shall deem proper, except that in~~ All juvenile and domestic relations court hearings held  
1520 on a petition alleging that a juvenile committed an offense which would be a felony if committed by an  
1521 adult shall be open, except that the court, sua sponte or on motion of the juvenile or the attorney for  
1522 the Commonwealth, may for good cause shown close the proceedings. If the proceedings are closed, the  
1523 court shall state in writing its reasons and the statement shall be made a part of the public record.

1524 In any hearing held for the purpose of adjudicating ~~the~~ an alleged violation of any criminal law, or  
1525 law defining a traffic infraction, the ~~child~~ juvenile or adult so charged shall have a right to be present  
1526 and shall have the right to a public hearing unless expressly waived by such person. The chief judge  
1527 may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a  
1528 traffic infraction may waive court appearance and admit to the infraction or infractions charged if he or  
1529 she and a parent, legal guardian, or person standing in loco parentis to the juvenile appear in person at  
1530 the court or before a magistrate or sign and either mail or deliver to the court or magistrate a written  
1531 form of appearance, plea and waiver, provided that the written form contains the notarized signature of  
1532 the parent, legal guardian, or person standing in loco parentis to the juvenile. An emancipated juvenile  
1533 charged with a traffic infraction shall have the opportunity to waive court appearance and admit to the  
1534 infraction or infractions if he or she appears in person at the court or before a magistrate or signs and  
1535 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.

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

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

~~The general public shall 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 All proceedings in the family court shall be open to the public in cases involving (i) 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 by an adult or adjudicating a petition alleging that a juvenile committed a delinquent act which would be a felony if committed by an adult unless, for good cause shown and on motion of the Commonwealth, the juvenile or sua sponte, the court orders such proceedings involving a juvenile closed. If proceedings involving a juvenile alleged to have committed a delinquent act which would have been a felony if committed by an adult are closed, the court shall state, in writing, its reasons and the statement shall be made a part of the public record.~~

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

*In any hearing held for the purpose of adjudicating an alleged violation of any criminal law, or law defining a traffic infraction, a juvenile or adult so charged shall have a right to be present.*

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

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

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

All information obtained in discharge of official duties by any official or by any employee of the court shall be privileged, and shall not be disclosed to anyone other than the judge unless and until otherwise ordered by the judge or by the judge of a circuit court; provided, however, that in any case when such information shall disclose that an offense has been committed which would be a felony if

committed by an adult, it shall be the duty of the official or employee of the court obtaining such information to report the same promptly to the attorney for the Commonwealth or the police in the county, city or town where the offense occurred. *It shall not be deemed a violation of this section if the disclosed information is otherwise available to the public.*

§ 16.1-305. 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 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 juvenile and domestic relations district 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 juvenile 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 older 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 public inspection unless the hearing was ordered closed.*

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. 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 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,

1659 shall have access to an accused's or inmate's records in family court.

1660 B. All or any part of the records enumerated in subsection A, or information secured from such  
1661 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also  
1662 be made available to the parties to the proceedings and their attorneys.

1663 *B1. All court records relating to a juvenile fourteen years of age or older adjudicated delinquent on*  
1664 *the basis of an act which would be a felony if committed by an adult, other than those records specified*  
1665 *in subsection A but including the docket, petitions, motions and other papers filed with any case*  
1666 *involving the juvenile and the transcripts of testimony, findings, verdicts, orders and decrees in any such*  
1667 *cases, shall be open to public inspection unless the hearing was ordered closed.*

1668 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a  
1669 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by  
1670 those persons and agencies designated in subsections A and B of this section.

1671 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for  
1672 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,  
1673 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney  
1674 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney  
1675 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding  
1676 and that such papers will be only used for such evidentiary purpose.

1677 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to  
1678 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an  
1679 award to the victim of a crime, and such information shall not be disseminated or used by the  
1680 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

1681 F. Section 20-124 shall govern the confidentiality of court records in cases involving divorce,  
1682 annulment or affirmation of marriage, separate maintenance and equitable distribution based on a foreign  
1683 decree. Sections 63.1-235 and 63.1-236 shall govern the confidentiality of adoption cases.

1684 G. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the  
1685 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a  
1686 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the  
1687 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a  
1688 written request, the Department of Youth and Family Services shall provide advance notice of such  
1689 juvenile offender's anticipated date of release from commitment.

1690 § 16.1-305.1. Disclosure of disposition in certain delinquency cases.

1691 Upon disposition of a proceeding in a court of competent jurisdiction in which a juvenile is  
1692 adjudicated delinquent or convicted of a crime based upon a violation of the law involving (i) the  
1693 unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of Chapter 7  
1694 of Title 18.2, (ii) homicide, pursuant to Article 1 (§ 18.2-31 et seq.) of Chapter 4 of Title 18.2, (iii)  
1695 felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
1696 18.2, (iv) criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (v)  
1697 manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
1698 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (vi) manufacture, sale or distribution of  
1699 marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (vii) arson and related  
1700 crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (viii) burglary, pursuant to  
1701 § 18.2-89, the clerk of the court in which the disposition is entered shall, within fifteen days if there has  
1702 been no notice of an appeal, provide written notice of the disposition ordered by the court, including the  
1703 nature of the offense upon which the adjudication or conviction was based, to the superintendent of the  
1704 school division in which the child is enrolled at the time of the disposition or, if he is not then enrolled  
1705 in school, the division in which he was enrolled at the time of the offense. ~~Further disclosure of this~~  
1706 ~~information by the superintendent to school personnel is authorized only as provided in § 22.1-288.2.~~

1707 § 16.1-307. Circuit court records regarding juveniles.

1708 In proceedings against a ~~child~~ *juvenile* in the circuit court in which the ~~circuit court deals with the~~  
1709 ~~child in the same manner as a case in the juvenile court, the clerk of the court shall preserve all records~~  
1710 ~~connected with the proceedings in files separate from other files and records of the court as provided in~~  
1711 ~~§ 16.1-302. Except as provided in §§ 19.2-389.1 and 19.2-390, such records shall be open for inspection~~  
1712 ~~only in accordance with the provisions of § 16.1-305 and shall be subject to the expungement provisions~~  
1713 ~~of § 16.1-306~~ *juvenile was adjudicated delinquent or found guilty of an act which would be a felony if*  
1714 *committed by an adult, any court records pertaining to the juvenile, other than social, medical and*  
1715 *psychiatric or psychological records, shall be available and shall be treated in the same manner as*  
1716 *adult criminal records.*

1717 § 16.1-307. (Delayed effective date) Circuit court records regarding juveniles.

1718 In proceedings against a ~~child~~ *juvenile* in the circuit court in which the ~~circuit court deals with the~~  
1719 ~~child in the same manner as a case in the family court, the clerk of the court shall preserve all records~~  
1720 ~~connected with the proceedings in files separate from other files and records of the court as provided in~~

~~§ 16.1-302. Except as provided in §§ 19.2-389.1 and 19.2-390, such records shall be open for inspection only in accordance with the provisions of § 16.1-305 and shall be subject to the expungement provisions of § 16.1-306 juvenile was adjudicated delinquent or found guilty of an act which would be a felony if committed by an adult, any court records pertaining to the juvenile, other than social, medical and psychiatric or psychological records, shall be available and shall be treated in the same manner as adult criminal records.~~

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

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

§ 16.1-309. 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 juvenile 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. (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.

§ 19.2-388. Duties and authority of Exchange.

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

1782 B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records  
1783 and shall be destroyed when the juvenile has attained the age of twenty-nine, unless he was convicted of  
1784 an offense reportable to the Central Criminal Records Exchange committed when he was between the  
1785 ages of eighteen and twenty-nine.

1786 § 19.2-389. Dissemination of criminal history record information.

1787 A. Criminal history record information *filed with the Central Criminal Records Exchange* shall be  
1788 disseminated, whether directly or through an intermediary, only to:

1789 1. Authorized officers or employees of criminal justice agencies, as defined by § 9-169, for purposes  
1790 of the administration of criminal justice and the screening of an employment application or review of  
1791 employment by a criminal justice agency with respect to its own employees or applicants, and  
1792 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
1793 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
1794 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every thirty days;

1795 2. Such other individuals and agencies which require criminal history record information to  
1796 implement a state or federal statute or executive order of the President of the United States or Governor  
1797 that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based  
1798 upon such conduct, except that information concerning the arrest of an individual may not be  
1799 disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from  
1800 the date of the arrest and no disposition of the charge has been recorded and no active prosecution of  
1801 the charge is pending;

1802 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
1803 services required for the administration of criminal justice pursuant to that agreement which shall  
1804 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
1805 security and confidentiality of the data;

1806 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
1807 pursuant to an agreement with a criminal justice agency which shall specifically authorize access to data,  
1808 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
1809 security of the data;

1810 5. Agencies of state or federal government which are authorized by state or federal statute or  
1811 executive order of the President of the United States or Governor to conduct investigations determining  
1812 employment suitability or eligibility for security clearances allowing access to classified information;

1813 6. Individuals and agencies where authorized by court order or court rule;

1814 7. Agencies of any political subdivision of the Commonwealth for the conduct of investigations of  
1815 applicants for public employment, permit, or license whenever, in the interest of public welfare or  
1816 safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a  
1817 person with a conviction record would be compatible with the nature of the employment, permit, or  
1818 license under consideration;

1819 8. Public or private agencies when and as required by federal or state law or interstate compact to  
1820 investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not  
1821 be further disseminated by the agency to any party other than a federal or state authority or court as  
1822 may be required to comply with an express requirement of law for such further dissemination;

1823 9. To the extent permitted by federal law or regulation, public service companies as defined in  
1824 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
1825 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
1826 with the nature of the employment under consideration;

1827 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
1828 travel, including but not limited to, issuing visas and passports;

1829 11. A person requesting a copy of his own criminal history record information as defined in § 9-169  
1830 at his cost, except that criminal history record information shall be supplied at no charge to a person  
1831 who has applied to be a volunteer (i) with a Virginia affiliate of Big Brothers/Big Sisters of America,  
1832 (ii) with a volunteer fire company or volunteer rescue squad, (iii) as a court-appointed special advocate,  
1833 or (iv) with the Volunteer Emergency Families for Children;

1834 12. Administrators and board presidents of and applicants for licensure or registration as a child  
1835 welfare agency as defined in § 63.1-195 for dissemination to the Commissioner of Social Services'  
1836 representative pursuant to § 63.1-198 for the conduct of investigations with respect to employees of and  
1837 volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes  
1838 approved by family day-care systems, and foster and adoptive parent applicants of private child-placing  
1839 agencies, pursuant to § 63.1-198.1, subject to the restriction that the data shall not be further  
1840 disseminated by the facility or agency to any party other than the data subject, the Commissioner of  
1841 Social Services' representative or a federal or state authority or court as may be required to comply with  
1842 an express requirement of law for such further dissemination;

1843 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.

§ 19.2-390. 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;

1905 3. Any offense punishable as a misdemeanor under Title 54.1; or

1906 4. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for  
1907 a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, for violation of Article 2  
1908 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any similar ordinance of any county,  
1909 city or town.

1910 The reports shall contain such information as is required by the Exchange and shall be accompanied  
1911 by fingerprints of the individual arrested. Fingerprint cards prepared by a law-enforcement agency for  
1912 inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the  
1913 appropriate bureau.

1914 For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not  
1915 be required until (i) after a conviction is entered and no appeal is noted or if an appeal is noted, the  
1916 conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses  
1917 the proceeding pursuant to § 18.2-251; or (iii) after a verdict of acquittal by reason of insanity pursuant  
1918 to § 19.2-182.2. Upon such conviction or acquittal, the court shall remand the individual to the custody  
1919 of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief  
1920 law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is  
1921 completed after a determination of guilt or acquittal by reason of insanity. The court shall require the  
1922 officer to complete the report immediately following his conviction or acquittal, and the individual shall  
1923 be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him  
1924 or ordered him committed to the custody of the Commissioner of the Department of Mental Health,  
1925 Mental Retardation and Substance Abuse Services.

1926 B. Within seventy-two hours following the receipt of a warrant or capias for the arrest of any person  
1927 on a charge of a felony, the law-enforcement agency which received the charge shall enter the accused's  
1928 name and other appropriate information required by the Department of State Police into the "information  
1929 system", known as the Virginia Criminal Information Network (VCIN), established and maintained by  
1930 the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The report shall include the person's  
1931 name, date of birth, social security number and such other known information which the State Police  
1932 may require. Any unexecuted criminal process which has been entered into the VCIN system shall be  
1933 removed forthwith by the entering law-enforcement agency when the criminal process has been ordered  
1934 destroyed pursuant to § 19.2-76.1.

1935 C. The clerk of each circuit court and district court shall make a report to the Central Criminal  
1936 Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due  
1937 to mental incompetency, nolle prosequi, acquittal, or conviction of, or failure of a grand jury to return a  
1938 true bill as to, any person charged with an offense listed in subsection A of this section and (ii) any  
1939 adjudication of delinquency based upon an act which ~~would be a felony~~, if committed by an adult,  
1940 ~~provided fingerprints and photographs of the juvenile were required~~ *would require fingerprints to be*  
1941 ~~taken filed~~ pursuant to subsection A of ~~§ 16.1-299~~. In the case of offenses not required to be reported  
1942 to the Exchange by subsection A of this section, the reports of any of the foregoing dispositions shall be  
1943 filed by the law-enforcement agency making the arrest with the arrest record required to be maintained  
1944 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,  
1945 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  
1946 helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B  
1947 of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to ~~§ 16.1-269~~  
1948 ~~16.1-269.1~~, whether sentenced as adults or juveniles, the clerk shall also submit a report to the Sex  
1949 Offender Registry. The report to the Sex Offender Registry shall include the name of the person  
1950 convicted and all aliases which he is known to have used, the date and locality of the conviction for  
1951 which registration is required, his date of birth, social security number, last known address, and specific  
1952 reference to the offense for which he was convicted. No report of conviction or adjudication in a district  
1953 court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been  
1954 perfected. In the event that the records in the office of any clerk show that any conviction or  
1955 adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange  
1956 and, if appropriate, to the Registry, and each clerk of a circuit court, upon receipt of certification thereof  
1957 from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency  
1958 making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided  
1959 by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence  
1960 or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1,  
1961 the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into  
1962 the VCIN system.

1963 D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal  
1964 Records Exchange may receive, classify and file any other fingerprints and records of arrest or  
1965 confinement submitted to it by any law-enforcement agency or any correctional institution.

1966 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.

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

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

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

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

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

*The Department shall establish, staff and maintain, at any state correctional facilities designated by the Board, programs and housing for the rehabilitation, training, education and confinement of juveniles sentenced by the circuit courts as adults and committed to the Department pursuant to § 16.1-272. The Department of Correctional Education shall establish, staff, and maintain education for such juveniles in accordance with Chapter 18 (§ 22.1-339 et seq.) These programs shall ensure that juveniles are kept separate and apart from adult inmates.*

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

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

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

§ 66-10. Powers and duties of Board.

The Board shall have the following powers and duties:

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

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

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

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

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

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

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

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

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

2028       The Department is authorized and empowered to receive ~~children~~ *juveniles* committed to it by the  
2029 courts of the Commonwealth pursuant to ~~§ 16.1-278.8~~. The Department shall establish, staff and  
2030 maintain facilities for the rehabilitation, training and confinement of such ~~children~~ *juveniles*. The  
2031 Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or  
2032 counties maintaining places of detention for ~~children~~ *juveniles*, for the temporary care of such ~~children~~  
2033 *juveniles*.  
2034 **2. That §§ 16.1-309.1 and 19.2-389.1 of the Code of Virginia are repealed.**  
2035 **3. That the provisions of this act may result in a net increase in periods of imprisonment in state**  
2036 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**  
2037 **is**