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HOUSE BILL NO. 2546

Offered January 20, 1997

A *BILL to amend and reenact §§ 16.1-241.2, 16.1-248.1, 16.1-250, 16.1-250.1, 16.1-252, 16.1-268, 16.1-277, 16.1-278.1, 16.1-282, 16.1-301, 16.1-302.1, 16.1-323, 63.1-204.2, 63.1-210.1, 63.1-219.2, and 63.1-248.9 of the Code of Virginia and §§ 16.1-228, 16.1-241, 16.1-243, 16.1-247, 16.1-260, 16.1-263, 16.1-266, 16.1-267, 16.1-269.1, 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.8, 16.1-281, 16.1-300, 16.1-302, 16.1-305, 63.1-204, 63.1-204.1, and 63.1-248.6 of the Code of Virginia, as they are effective and as they may become effective, relating to the use of the terms parent, guardian, legal custodian and person standing in loco parentis in Title 16.1 and Title 63.1 of the Code of Virginia and in the Interstate Compact Relating to Juveniles and the Interstate Compact on the Placement of Children.*

Patrons—Mims, Cantor, Cunningham, Davies, Howell, Jones, J.C. and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241.2, 16.1-248.1, 16.1-250, 16.1-250.1, 16.1-252, 16.1-268, 16.1-277, 16.1-278.1, 16.1-282, 16.1-301, 16.1-302.1, 16.1-323, 63.1-204.2, 63.1-210.1, 63.1-219.2, and 63.1-248.9 of the Code of Virginia and §§ 16.1-228, 16.1-241, 16.1-243, 16.1-247, 16.1-260, 16.1-263, 16.1-266, 16.1-267, 16.1-269.1, 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.8, 16.1-281, 16.1-300, 16.1-302, 16.1-305, 63.1-204, 63.1-204.1, and 63.1-248.6 of the Code of Virginia, as they are effective and as they may become effective, are amended and reenacted as follows:

§ 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 committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

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

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

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

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

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60 be incidents of physical, emotional or sexual abuse in the home be considered a child in need of
61 services for that reason alone.

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

66 "Child in need of supervision" means:

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

73 2. A child who, without reasonable cause and without the consent of his ~~parent, lawful custodian~~
74 *parents, guardian, legal custodian, other person standing in loco parentis* or placement authority,
75 remains away from or habitually deserts or abandons his ~~family or lawful custodian parents, guardian,~~
76 *legal custodian, other person standing in loco parentis* or escapes or remains away without proper
77 authority from a residential care facility in which he has been placed by the court, and (i) such conduct
78 presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need
79 of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court
80 is essential to provide the treatment, rehabilitation or services needed by the child or his family.

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

83 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an
84 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of
85 § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
86 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
87 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
88 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or
89 town.

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

93 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
94 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
95 duties imposed upon him under this law.

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

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

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

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

119 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
120 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding
121 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 juvenile and domestic relations district court of each county or city.

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

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

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

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

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

"State Board" means the State Board of Juvenile Justice.

"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.

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

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

"Abused or neglected child" means any child:

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

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

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

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

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

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

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

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

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

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

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster

183 home as defined in § 63.1-195.

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

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

196 "Child in need of supervision" means:

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

203 2. A child who, without reasonable cause and without the consent of his ~~parent, lawful custodian~~
204 *parents, guardian, legal custodian, other person standing in loco parentis* or placement authority,
205 remains away from or habitually deserts or abandons his ~~family or lawful custodian parents, guardian,~~
206 *legal custodian, other person standing in loco parentis* or escapes or remains away without proper
207 authority from a residential care facility in which he has been placed by the court, and (i) such conduct
208 presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need
209 of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court
210 is essential to provide the treatment, rehabilitation or services needed by the child or his family.

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

212 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an
213 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of
214 § 18.2-308.7 or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
215 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
216 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
217 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or
218 town.

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

222 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
223 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
224 duties imposed upon him under this law.

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

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

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

pursuant to § 16.1-293.

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

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

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

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

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

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

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

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

"State Board" means the State Board of Juvenile Justice.

"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 or divested;

2. Who is abandoned by his ~~parent or other custodian~~ parents, guardian, legal custodian, other person standing in loco parentis 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~~ his parents, guardian, legal custodian, other person standing in loco parentis who has been adjudicated as having abused or neglected another child in the care of the ~~parent or custodian~~ parents, guardian, legal custodian, other person standing in loco parentis;

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, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall 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, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been 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, *including family or other household member* of a child:

1. Who has been abused or neglected;

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

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

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

which are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

430 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status
431 offender, or delinquent; except where the jurisdiction of the family court has been terminated or
432 divested;

433 2. Who is abandoned by his ~~parent or other custodian~~ *parents, guardian, legal custodian, or other*
434 *person standing in loco parentis* or who by reason of the absence or physical or mental incapacity of his
435 parents is without parental care and guardianship;

436 2a. Who is at risk of being abused or neglected by a ~~parent or custodian~~ *his parents, guardian, legal*
437 *custodian, or other person standing in loco parentis* who has been adjudicated as having abused or
438 neglected another child in the care of the ~~parent or custodian~~ *parents, guardian, legal custodian, or*
439 *other person standing in loco parentis*;

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

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

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

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

445 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated
446 in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the family
447 court shall be limited to conducting a preliminary hearing to determine if there is probable cause to
448 believe that the juvenile committed the act alleged and that the juvenile was fourteen years of age or
449 older at the time of the commission of the alleged offense, and any matters related thereto. In any case
450 in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C
451 of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given
452 notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the family court shall be limited
453 to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile
454 committed the act alleged and that the juvenile was fourteen years of age or older at the time of the
455 commission of the alleged offense, and any matters related thereto. A determination by the family court
456 following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the
457 grand jury shall divest the family court of jurisdiction over the charge and any ancillary charge. In any
458 case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the family court
459 determines to transfer the case, jurisdiction of the family court over the case shall be divested as
460 provided in § 16.1-269.6.

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

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

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

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

486 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
487 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
488 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
489 standing in loco parentis (i) is not a resident of this Commonwealth, (ii) his whereabouts is unknown,
490 (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, *including family or other household member* of a child:

1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

T. Suits for separate maintenance.

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

V. Petitions for adoption.

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

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

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

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

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

552 pursuant to § 63.1-248.6:1.

553 BB. Petitions filed in connection with parental placement adoption consent hearings, pursuant to
554 § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within
555 ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest
556 possible disposition.

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

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

562 § 16.1-241.2. Proceedings against certain parents.

563 A. Upon the failure of a parent to comply with the provisions of § 22.1-279.3, the school board may,
564 by petition to the juvenile and domestic relations court, proceed against such parent for willful and
565 unreasonable refusal to participate in efforts to improve the student's behavior as follows:

566 1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a
567 request of the principal as set forth in subsection D of § 22.1-279.3, to review the school board's
568 standards of student conduct and the parent's responsibility to assist the school in disciplining the student
569 and maintaining order and to discuss improvement of the child's behavior and educational progress, it
570 may order the parent to so meet; or

571 2. If the court finds that the parent has willfully and unreasonably failed to accompany a suspended
572 student to meet with school officials pursuant to subsection F of § 22.1-279.3, or upon the student
573 receiving a second suspension or being expelled, it may order (i) the student or his parent to participate
574 in such programs or such treatment as the court deems appropriate to improve the student's behavior or
575 (ii) the student or his parent to be subject to such conditions and limitations as the court deems
576 appropriate for the supervision, care, and rehabilitation of the student or his parent; in addition, the court
577 may order the parent to pay a civil penalty not to exceed \$500.

578 The court shall not use its contempt power to enforce any order entered under this section.

579 B. The civil penalties established pursuant to this section shall be enforceable in the juvenile and
580 domestic relations court or its successor in interest in which the student's school is located and shall be
581 paid into a fund maintained by the appropriate local governing body to support programs or treatments
582 designed to improve the behavior of students as described in subdivision 3 of subsection G of
583 § 22.1-279.3. Upon the failure to pay any civil penalties imposed by this section and § 22.1-279.3, the
584 attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

585 C. For the purposes of this section and § 22.1-279.3, "parent" or "parents" means any parent,
586 guardian, legal custodian, or other person ~~having control or charge of a child~~ *standing in loco parentis*.

587 § 16.1-243. Venue.

588 A. Original venue:

589 1. Cases involving children, other than support or where protective order issued: Proceedings with
590 respect to children under this law, except support proceedings as provided in subdivision 2 of this
591 subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

592 a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts
593 constituting the alleged delinquency occurred or they may, with the written consent of the child and the
594 attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the
595 child resides;

596 b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the
597 city or county which, in order of priority, (i) is the home of the child at the time of the filing of the
598 petition, or had been the home of the child within six months before the filing of the petition and the
599 child is absent from the city or county because of his removal or retention by a person claiming his
600 custody or for other reasons, and a parent ~~or person acting as a parent, guardian, legal custodian, or~~
601 *other person standing in loco parentis* continues to live in the city or county, (ii) has significant
602 connection with the child and in which there is substantial evidence concerning the child's present or
603 future care, protection, training and personal relationships, (iii) is where the child is physically present
604 and the child has been abandoned or it is necessary in an emergency to protect the child because he has
605 been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or
606 (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is
607 an appropriate venue under the preceding provisions of this subdivision;

608 c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241 and 63.1-220.3,
609 be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or
610 county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive
611 parent(s) reside; and

612 d. All other cases: In all other proceedings, be commenced in the city or county where the child
613 resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. The transferor court may, in its discretion, retain such copies as it deems appropriate.

§ 16.1-243. (Delayed effective date) Venue.

A. Original venue:

1. Cases involving children, other than support or where protective order issued: Proceedings with respect to children under this law, except support proceedings as provided in subdivision 2 of this subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent, guardian, legal custodian, or other person standing in loco parentis continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or

675 (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is
676 an appropriate venue under the preceding provisions of this subdivision;

677 c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241 and 63.1-220.3,
678 be commenced (i) in the city or county where the child to be adopted was born, (ii) in the city or
679 county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive
680 parent(s) reside; and

681 d. All other cases: In all other proceedings, be commenced in the city or county where the child
682 resides or in the city or county where the child is present when the proceedings are commenced.

683 2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive
684 of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or
685 county where either party resides or in the city or county where the respondent is present when the
686 proceeding commences.

687 3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse
688 shall be commenced where (i) either party has his or her principal residence, (ii) the abuse occurred or
689 (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to
690 protect the petitioner or a family or household member of the petitioner.

691 4. Divorce, annulment, affirmation, separate maintenance or equitable distribution: Suits for divorce,
692 annulment or affirmation of marriage, separate maintenance or equitable distribution based on a foreign
693 decree shall be governed by Chapter 5 (§ 8.01-257 et seq.) of Title 8.01.

694 5. Adoption: Proceedings for adoption shall be governed by §§ 63.1-221 and 63.1-222.

695 6. Emancipation: Proceedings for emancipation shall be governed by § 16.1-331.

696 7. Injunction: Proceedings to award an injunction shall be governed by Chapter 5 (§ 8.01-257 et seq.)
697 of Title 8.01.

698 8. Change of name: Proceedings to change a name shall be governed by § 8.01-217.

699 B. Transfer of venue:

700 1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county
701 of the Commonwealth and the proceeding is commenced in a court of another city or county, that court
702 may at any time, on its own initiative or a motion of a party for good cause shown, transfer the
703 proceeding to the city or county of the child's residence for such further action or proceedings as the
704 court receiving the transfer may deem proper. However, such transfer may occur only after adjudication
705 in delinquency proceedings.

706 2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or
707 counties, the court in which the motion for transfer is made shall determine which such city or county is
708 the most appropriate venue unless the parties mutually agree to the selection of venue. In the
709 consideration of the motion, the best interests of the child shall determine the most appropriate forum.

710 3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 (§ 20-61 et
711 seq.) of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding
712 is commenced in a court of another city or county, that court may, at any time on its own motion or a
713 motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the
714 city or county of the respondent's residence for such further action or proceedings as the court receiving
715 the transfer may deem proper. For the purposes of determining venue of cases involving support, the
716 respondent's residence shall include any city or county in which the respondent has resided within the
717 last six months prior to the commencement of the proceeding or in which the respondent is residing at
718 the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or
719 counties, the court in which the motion for transfer is made shall determine which such city or county is
720 the most appropriate venue unless the parties mutually agree to the selection of such venue.

721 When the support proceeding is a companion case to a child custody or visitation proceeding, the
722 provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

723 4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may
724 in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based
725 either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any
726 transfer of venue in cases involving children, the best interests of the child shall be considered in
727 deciding if and to which court a transfer of venue would be appropriate.

728 5. Enforcement of orders for support, maintenance and custody: Any family court to which a suit is
729 transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to
730 § 20-79 (c) may transfer the case as provided in this section.

731 6. Transfer of venue in suits for divorce, annulment or affirmation of marriage, separate maintenance,
732 or equitable distribution based on a foreign decree, or to award an injunction shall be governed by
733 Chapter 5 (§ 8.01-257 et seq.) of Title 8.01 as these provisions relate to circuit court.

734 C. Records: Originals of all legal and social records pertaining to the case shall accompany the
735 transfer of venue. The transferor court may, in its discretion, retain such copies as it deems appropriate.

736 § 16.1-247. Duties of person taking child into custody.

A. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such hours as the court is open, shall, with all practicable speed, and in accordance with the provisions of this law and the orders of court pursuant thereto, bring the child to the judge or intake officer of the court and the judge, intake officer or arresting officer shall, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.

B. A person taking a child into custody pursuant to the provisions of subsection B, C or D of § 16.1-246, during such hours as the court is open, shall, with all practicable speed, and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child to such child's parents, guardian, *legal custodian, other person standing in loco parentis* or other suitable person able and willing to provide supervision and care for such child and issue oral counsel and warning as may be appropriate; or

2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco parentis upon their promise to bring the child before the court when requested; or

3. If not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer or arresting officer shall give notice of the action taken orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis. Nothing herein shall prevent the child from being held for the purpose of administering a blood or breath test to determine the alcoholic content of his blood where the child has been taken into custody pursuant to § 18.2-266.

C. A person taking a child into custody pursuant to the provisions of subsections E and F of § 16.1-246, during such hours as the court is open, shall, with all practicable speed and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child to the institution, facility or home from which he ran away or escaped; or

2. If not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer or arresting officer shall give notice of the action taken orally or in writing to the institution, facility or home in which the child had been placed and orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.

D. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such hours as the court is not open, shall with all practicable speed and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child taken into custody pursuant to a warrant on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2; or

2. Place the child in a detention home or in shelter care; or

3. Place the child in a jail subject to the provisions of § 16.1-249.

E. A person taking a child into custody pursuant to the provisions of subsection B, C or D of § 16.1-246 during such hours as the court is not open, shall:

1. Release the child pursuant to the provisions of subdivision B 1 or B 2 of this section; or

2. Release the child on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2;

or

3. Place the child taken into custody pursuant to § 16.1-246 B in shelter care after the issuance of a detention order pursuant to § 16.1-255; or

4. Place the child taken into custody pursuant to subsection C or D of § 16.1-246 in shelter care or in a detention home after the issuance of a warrant by a magistrate; or

5. Place the child in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate; or

6. In addition to any other provisions of this subsection, detain the child for a reasonably necessary period of time in order to administer a breath or blood test to determine the alcohol content of his blood, if such child was taken into custody pursuant to § 18.2-266.

F. A person taking a child into custody pursuant to the provisions of § 16.1-246 E, during such hours as the court is not open, shall:

1. Release the child to the institution or facility from which he ran away or escaped; or

2. Detain the child in a detention home or in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate.

G. A person taking a child into custody pursuant to the provisions of § 16.1-246 F, during such hours as the court is not open, shall:

1. Release the child to the facility or home from which he ran away; or

798 2. Detain the child in shelter care after the issuance of a detention order pursuant to § 16.1-255 or
799 after the issuance of a warrant by a magistrate.

800 H. If a parent, guardian ~~or other~~ legal custodian or other person standing in loco parentis fails, when
801 requested, to bring the child before the court as provided in subdivisions B 2 and E 1 hereof, the court
802 may issue a detention order directing that the child be taken into custody and be brought before the
803 court.

804 I. A law-enforcement officer taking a child into custody pursuant to the provisions of § 16.1-246 G
805 shall notify the intake officer of the juvenile court of the action taken. The intake officer shall determine
806 if the child's conduct or situation is within the jurisdiction of the court and if a petition should be filed
807 on behalf of the child. If the intake officer determines that a petition should not be filed, the
808 law-enforcement officer shall as soon as practicable:

809 1. Return the child to his home;

810 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco
811 parentis;

812 3. Place the child in shelter care for a period not longer than twenty-four hours after the issuance of
813 a detention order pursuant to § 16.1-255; or

814 4. Release the child.

815 During the period of detention authorized by this subsection no child shall be confined in any
816 detention home, jail or other facility for the detention of adults.

817 J. If a child is taken into custody pursuant to the provisions of subsection B, F or G of § 16.1-246
818 by a law-enforcement officer during such hours as the court is not in session and the child is not
819 released or transferred to a facility or institution in accordance with subsection E, G, or I of this section,
820 the child shall be held in custody only so long as is reasonably necessary to complete identification,
821 investigation and processing. The child shall be held under visual supervision in a nonlocked,
822 multipurpose area which is not designated for residential use. The child shall not be handcuffed or
823 otherwise secured to a stationary object.

824 § 16.1-247. (Delayed effective date) Duties of person taking child into custody.

825 A. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such
826 hours as the court is open, shall, with all practicable speed, and in accordance with the provisions of this
827 law and the orders of court pursuant thereto, bring the child to the judge or intake officer of the court
828 and the judge, intake officer or arresting officer shall, in the most expeditious manner practicable, give
829 notice of the action taken, together with a statement of the reasons for taking the child into custody,
830 orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco
831 parentis.

832 B. A person taking a child into custody pursuant to the provisions of subsection B, C or D of
833 § 16.1-246, during such hours as the court is open, shall, with all practicable speed, and in accordance
834 with the provisions of this law and the orders of court pursuant thereto:

835 1. Release the child to such child's parents, guardian, legal custodian, other person standing in loco
836 parentis or other suitable person able and willing to provide supervision and care for such child and
837 issue oral counsel and warning as may be appropriate; or

838 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco
839 parentis upon their promise to bring the child before the court when requested; or

840 3. If not released, bring the child to the judge or intake officer of the court and, in the most
841 expeditious manner practicable, give notice of the action taken, together with a statement of the reasons
842 for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer
843 or arresting officer shall give notice of the action taken orally or in writing to the child's parent,
844 guardian, legal custodian or other person standing in loco parentis. Nothing herein shall prevent the
845 child from being held for the purpose of administering a blood or breath test to determine the alcoholic
846 content of his blood where the child has been taken into custody pursuant to § 18.2-266.

847 C. A person taking a child into custody pursuant to the provisions of subsections E and F of
848 § 16.1-246, during such hours as the court is open, shall, with all practicable speed and in accordance
849 with the provisions of this law and the orders of court pursuant thereto:

850 1. Release the child to the institution, facility or home from which he ran away or escaped; or

851 2. If not released, bring the child to the judge or intake officer of the court and, in the most
852 expeditious manner practicable, give notice of the action taken, together with a statement of the reasons
853 for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer
854 or arresting officer shall give notice of the action taken orally or in writing to the institution, facility or
855 home in which the child had been placed and orally or in writing to the child's parent, guardian, legal
856 custodian or other person standing in loco parentis.

857 D. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such
858 hours as the court is not open, shall with all practicable speed and in accordance with the provisions of
859 this law and the orders of court pursuant thereto:

1. Release the child taken into custody pursuant to a warrant on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2; or
 2. Place the child in a detention home or in shelter care; or
 3. Place the child in a jail subject to the provisions of § 16.1-249.
 E. A person taking a child into custody pursuant to the provisions of subsection B, C or D of § 16.1-246 during such hours as the court is not open, shall:
 1. Release the child pursuant to the provisions of subdivision B 1 or B 2 of this section; or
 2. Release the child on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2; or
 3. Place the child taken into custody pursuant to § 16.1-246 B in shelter care after the issuance of a detention order pursuant to § 16.1-255; or
 4. Place the child taken into custody pursuant to subsection C or D of § 16.1-246 in shelter care or in a detention home after the issuance of a warrant by a magistrate; or
 5. Place the child in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate; or
 6. In addition to any other provisions of this subsection, detain the child for a reasonably necessary period of time in order to administer a breath or blood test to determine the alcohol content of his blood, if such child was taken into custody pursuant to § 18.2-266.
 F. A person taking a child into custody pursuant to the provisions of § 16.1-246 E, during such hours as the court is not open, shall:
 1. Release the child to the institution or facility from which he ran away or escaped; or
 2. Detain the child in a detention home or in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate.
 G. A person taking a child into custody pursuant to the provisions of § 16.1-246 F, during such hours as the court is not open, shall:
 1. Release the child to the facility or home from which he ran away; or
 2. Detain the child in shelter care after the issuance of a detention order pursuant to § 16.1-255 or after the issuance of a warrant by a magistrate.
 H. If a parent, guardian ~~or other~~, *legal custodian or other person standing in loco parentis* fails, when requested, to bring the child before the court as provided in subdivisions B 2 and E 1 hereof, the court may issue a detention order directing that the child be taken into custody and be brought before the court.
 I. A law-enforcement officer taking a child into custody pursuant to the provisions of § 16.1-246 G shall notify the intake officer of the family court of the action taken. The intake officer shall determine if the child's conduct or situation is within the jurisdiction of the court and if a petition should be filed on behalf of the child. If the intake officer determines that a petition should not be filed, the law-enforcement officer shall as soon as practicable:
 1. Return the child to his home;
 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco parentis;
 3. Place the child in shelter care for a period not longer than twenty-four hours after the issuance of a detention order pursuant to § 16.1-255; or
 4. Release the child.
 During the period of detention authorized by this subsection no child shall be confined in any detention home, jail or other facility for the detention of adults.
 J. If a child is taken into custody pursuant to the provisions of subsection B, F or G of § 16.1-246 by a law-enforcement officer during such hours as the court is not in session and the child is not released or transferred to a facility or institution in accordance with subsection E, G, or I of this section, the child shall be held in custody only so long as is reasonably necessary to complete identification, investigation and processing. The child shall be held under visual supervision in a nonlocked, multipurpose area which is not designated for residential use. The child shall not be handcuffed or otherwise secured to a stationary object.
 § 16.1-248.1. Criteria for detention or shelter care.
 A. A juvenile taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such juvenile's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, a juvenile may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the juvenile committed the act alleged, and that at least one of the following conditions is met:

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

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

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

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

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

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

938 4. The juvenile has failed to appear in court after having been duly served with a summons in any
939 case in which it is alleged that the juvenile has committed a delinquent act or that the child is in need
940 of services or is in need of supervision; however, a child alleged to be in need of services or in need of
941 supervision may be detained for good cause pursuant to this subsection only until the next day upon
942 which the court sits within the county or city in which the charge against the child is pending, and
943 under no circumstances longer than seventy-two hours from the time he was taken into custody.

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

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

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

951 3. The juvenile's parent, guardian, *legal custodian*, *other person standing in loco parentis* or other
952 *suitable person willing and able* to provide supervision cannot be reached within a reasonable time;

953 4. The juvenile does not consent to return home;

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

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

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

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

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

969 § 16.1-250. Procedure for detention hearing.

970 A. When a child has been taken into immediate custody and not released as provided in § 16.1-247
971 or § 16.1-248.1, such child shall appear before a judge on the next day on which the court sits within
972 the county or city wherein the charge against the child is pending. In the event the court does not sit
973 within the county or city on the following day, such child shall appear before a judge within a
974 reasonable time, not to exceed seventy-two hours, after he has been taken into custody. If the
975 seventy-two hour period expires on a Saturday, Sunday or other legal holiday, the seventy-two hours
976 shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

977 B. The appearance of the child may be by (i) personal appearance before the judge or (ii) use of
978 two-way electronic video and audio communication. If two-way electronic video and audio
979 communication is used, a judge may exercise all powers conferred by law and all communications and
980 proceedings shall be conducted in the same manner as if the appearance were in person, and any
981 documents filed may be transmitted by electronically transmitted facsimile process. The facsimile may
982 be served or executed by the officer or person to whom sent, and returned in the same manner, and with

the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

C. Notice of the detention hearing, either oral or written, stating the time, place and purpose of the hearing shall be given to the ~~parent~~ *parents*, guardian, legal custodian or other person standing in loco parentis if he can be found, to the child if twelve years of age or over and to the attorney for the Commonwealth.

D. During the detention hearing, the judge shall advise the parties of the right to counsel pursuant to § 16.1-266. The parties shall be informed of the child's right to remain silent with respect to any allegation of delinquency and of the contents of the petition. The attorney for the Commonwealth shall be given the opportunity to be heard.

E. If the judge finds that there is not probable cause to believe that the child committed the delinquent act alleged, the court shall order his release. If the judge finds that there is probable cause to believe that the child committed the delinquent act alleged but that the full-time detention of a child who is alleged to be delinquent is not required, the court shall order his release, and in so doing, the court may impose one or more of the following conditions singly or in combination:

1. Place the child in the custody *and supervision* of a parent, guardian, legal custodian ~~or~~ , other person standing in loco parentis ~~under their supervision~~, *other suitable person able and willing to provide supervision and care*, or under the supervision of an organization or individual agreeing to supervise him;

2. Place restrictions on the child's travel, association or place of abode during the period of his release;

3. Impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in § 16.1-248.1; or

4. Release the child on bail or recognizance in accordance with the provisions of Chapter 9 (§ 19.2-119 et seq.) of Title 19.2.

F. An order releasing a child on any of the conditions specified in this section may, at any time, be amended to impose additional or different conditions of release or to return the child who is alleged to be delinquent to custody for failure to conform to the conditions previously imposed.

G. All relevant and material evidence helpful in determining probable cause under this section or the need for detention may be admitted by the court even though not competent in a hearing on the petition.

H. If the child is not released and a parent, guardian, legal custodian or other person standing in loco parentis is not notified and does not appear or does not waive appearance at the hearing, upon the request of such person, the court shall rehear the matter on the next day on which the court sits within the county or city wherein the charge against the child is pending. If the court does not sit within the county or city on the following day, such hearing shall be held before a judge within a reasonable time, not to exceed seventy-two hours, after the request.

I. In considering probable cause under this section, if the court deems it necessary to summon witnesses to assist in such determination then the hearing may be continued and the child remain in detention, but in no event longer than three consecutive days, exclusive of Saturdays, Sundays, and legal holidays.

§ 16.1-250.1. Appointment of counsel; detention review hearing.

When a child is not released after a detention hearing held pursuant to § 16.1-250 and, at the time of the detention hearing, the child was not represented by legal counsel, then the child shall be afforded the opportunity to be represented by counsel prior to a detention review hearing.

The court shall, upon request of counsel, rehear the matter as soon as is practicable but in no event later than seventy-two hours after the request for the review hearing. During the hearing, the court shall evaluate the need for continued detention of the child.

Notice of the detention review hearing, either oral or written, stating the time, place and purpose of the hearing shall be given to the ~~parent~~ *parents*, guardian, legal custodian or other person standing in loco parentis if he can be found, to the child's attorney, to the child if twelve years of age or over, and to the attorney for the Commonwealth who shall be given an opportunity to be heard.

§ 16.1-252. Preliminary removal order; hearing.

A. A preliminary removal order in cases in which a child is alleged to have been abused or neglected may be issued by the court after a hearing wherein the court finds that reasonable efforts have been made to prevent removal of the child from his home. The hearing shall be in the nature of a preliminary hearing rather than a final determination of custody.

B. Prior to the removal hearing, notice of the hearing shall be given at least twenty-four hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she is twelve years of age or older. If notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot

1044 be given despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents,
1045 guardian, legal custodian or other person standing in loco parentis shall be afforded a later hearing on
1046 their motion regarding a continuation of the summary removal order. The notice provided herein shall
1047 include (i) the time, date and place for the hearing, (ii) a specific statement of the factual circumstances
1048 which allegedly necessitate removal of the child, and (iii) notice that child support will be considered if
1049 a determination is made that the child must be removed from the home.

1050 C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

1051 D. At the removal hearing the child and his ~~parent~~ parents, guardian, legal custodian or other person
1052 standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and
1053 evidence and to present evidence on their own behalf. If the child is twelve years of age or under, the
1054 child's attorney or guardian ad litem, or if the child has been committed to the custody of the
1055 Department of Social Services, the local department of social services, may apply for an order from the
1056 court that the child's testimony be taken in a room outside the courtroom and be televised by two-way
1057 closed-circuit television. The provisions of § 63.1-248.13:1 shall apply, mutatis mutandis, to the use of
1058 two-way closed-circuit television except that the person seeking the order shall apply for the order at
1059 least forty-eight hours before the hearing, unless the court for good cause shown allows the application
1060 to be made at a later time.

1061 E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning
1062 party or agency must prove:

1063 1. The child would be subjected to an imminent threat to life or health to the extent that severe or
1064 irremediable injury would be likely to result if the child were returned to or left in the custody of his
1065 parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on
1066 the petition; and

1067 2. Reasonable efforts have been made to prevent removal of the child from his home and there are
1068 no alternatives less drastic than removal of the child from his home which could reasonably and
1069 adequately protect the child's life or health pending a final hearing on the petition. The alternatives less
1070 drastic than removal may include but not be limited to the provision of medical, educational, psychiatric,
1071 psychological, homemaking or other similar services to the child or family or the issuance of a
1072 preliminary protective order pursuant to § 16.1-253.

1073 When a child is removed from his home and there is no reasonable opportunity to provide preventive
1074 services, reasonable efforts to prevent removal shall be deemed to have been made.

1075 F. If the court determines that pursuant to subsection E hereof the removal of the child is proper, the
1076 court shall:

1077 1. Order that the child be placed in the care and custody of a suitable person, with consideration
1078 being given to placement in the care and custody of a nearest kin, including grandparents, or personal
1079 friend or, if such placement is not available, in the care and custody of a suitable agency;

1080 2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal
1081 custodian or other person standing in loco parentis, if such visitation would not endanger the child's life
1082 or health; and

1083 3. Order that the parent or other legally obligated person pay child support pursuant to § 16.1-290.

1084 G. A person having legal custody of a child as defined in § 16.1-228 (i) shall not be required to
1085 comply with the requirements of this section in order to redetermine where and with whom the child
1086 shall live, notwithstanding that the child had been placed with a natural parent.

1087 § 16.1-260. Intake; petition; investigation.

1088 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
1089 a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of
1090 the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services
1091 from the Department of Social Services prior to filing a petition seeking support for a child. Complaints,
1092 requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
1093 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
1094 motion with the clerk, (ii) the Department of Social Services may file support petitions on its own
1095 motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk
1096 except petitions alleging that the subject of the petition is a child alleged to be in need of services, in
1097 need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred
1098 initially to the local department of public welfare or social services in accordance with the provisions of
1099 Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall
1100 be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed
1101 shall inquire whether the petitioner is receiving child support services or public assistance. No individual
1102 who is receiving support services or public assistance shall be denied the right to file a petition or
1103 motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or
1104 receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a
1105 copy of the petition or motion together with notice of the court date to the Division of Child Support

Enforcement.

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

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

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

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

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

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

E. If the intake officer refuses to authorize a petition relating to an offense 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 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 juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the

1167 intake officer shall accept and file a petition founded upon the warrant.

1168 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
1169 which alleges facts of an offense which would be a felony if committed by an adult.

1170 G. After a petition is filed alleging that a juvenile committed an act which would be a crime if
1171 committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of
1172 the filing of the petition and the nature of the offense to the superintendent of the school division in
1173 which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1174 1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of
1175 Chapter 7 of Title 18.2;

1176 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

1177 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
1178 Title 18.2;

1179 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

1180 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
1181 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

1182 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
1183 7 of Title 18.2;

1184 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

1185 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93.

1186 Promptly after filing a petition the intake officer shall also mail notice, by first-class mail, to the
1187 superintendent. The failure to provide information regarding the school in which the juvenile who is the
1188 subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

1189 The information provided to a division superintendent pursuant to this section may be disclosed only
1190 as provided in § 16.1-305.2.

1191 H. The filing of a petition shall not be necessary:

1192 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
1193 other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating
1194 surfing or any ordinance establishing curfew violations or animal control violations. In such cases the
1195 court may proceed on a summons issued by the officer investigating the violation in the same manner as
1196 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the
1197 scene of the accident or at any other location where a juvenile who is involved in such an accident may
1198 be located, proceed on a summons in lieu of filing a petition.

1199 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision
1200 H of § 16.1-241.

1201 3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other
1202 alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian
1203 pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal
1204 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or
1205 legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
1206 manner provided in § 16.1-278.8 or § 16.1-278.9. If the juvenile so charged with a violation of
1207 § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and
1208 breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the
1209 provisions of these sections shall be followed except that the magistrate shall authorize execution of the
1210 warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and
1211 a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or
1212 § 29.1-738 is to be tried.

1213 4. In the case of offenses which, if committed by an adult would be punishable as a Class 3 or Class
1214 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in
1215 § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as
1216 provided by law for adults provided that notice of the summons to appear is mailed by the investigating
1217 officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

1218 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of
1219 the jurisdiction granted it in § 16.1-241.

1220 § 16.1-260. (Delayed effective date) Intake; petition; investigation.

1221 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
1222 a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of
1223 the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services
1224 from the Department of Social Services prior to filing a petition seeking support for a juvenile.
1225 Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the
1226 intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition
1227 on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on
1228 its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the

clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. In addition, all cases for divorce, annulment or affirmation of marriage, separate maintenance, equitable distribution based on a foreign decree, adoption, change of name, amendment of a record of birth and judicial review of school board actions and of hearing officer decisions shall be filed directly with the clerk. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion together with notice of the court date to the Division of Child Support Enforcement.

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

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

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

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

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

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

1290 officer determines that the parties have made a reasonable effort to utilize available community
1291 treatment or services, may he permit the petition to be filed.

1292 E. If the intake officer refuses to authorize a petition relating to an offense which if committed by an
1293 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
1294 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
1295 determines that probable cause exists, he shall issue a warrant returnable to the family court. The
1296 warrant shall be delivered forthwith to the family court, and the intake officer shall accept and file a
1297 petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for
1298 detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained
1299 pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to
1300 authorize a petition relating to a child in need of services or in need of supervision, a status offense, or
1301 a misdemeanor other than Class 1, his decision is final.

1302 Upon delivery to the family court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
1303 intake officer shall accept and file a petition founded upon the warrant.

1304 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
1305 which alleges facts of an offense which would be a felony if committed by an adult.

1306 G. After a petition is filed alleging that a juvenile committed an act which would be a crime if
1307 committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of
1308 the filing of the petition and the nature of the offense to the superintendent of the school division in
1309 which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

1310 1. The unlawful purchase, possession or use of a weapon pursuant to Article 4 (§ 18.2-279 et seq.) of
1311 Chapter 7 of Title 18.2;

1312 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

1313 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
1314 Title 18.2;

1315 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

1316 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
1317 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

1318 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
1319 7 of Title 18.2;

1320 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or

1321 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93.

1322 Promptly after filing a petition the intake officer shall also mail notice, by first-class mail, to the
1323 superintendent. The failure to provide information regarding the school in which the juvenile who is the
1324 subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

1325 The information provided to a division superintendent pursuant to this section may be disclosed only
1326 as provided in § 16.1-305.2.

1327 H. The filing of a petition shall not be necessary:

1328 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
1329 other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating
1330 surfing or any ordinance establishing curfew violations or animal control violations. In such cases the
1331 court may proceed on a summons issued by the officer investigating the violation in the same manner as
1332 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the
1333 scene of the accident or at any other location where a juvenile who is involved in such an accident may
1334 be located, proceed on a summons in lieu of filing a petition.

1335 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision
1336 H of § 16.1-241.

1337 3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other
1338 alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian
1339 pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal
1340 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or
1341 legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the
1342 manner provided in § 16.1-278.8 or § 16.1-278.9. If the juvenile so charged with a violation of
1343 § 18.2-266 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and
1344 breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the
1345 provisions of these sections shall be followed except that the magistrate shall authorize execution of the
1346 warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and
1347 a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or
1348 § 29.1-738 is to be tried.

1349 4. In cases of divorce, annulment or affirmation of marriage, separate maintenance, equitable
1350 distribution based on a foreign decree, and judicial review of school board actions and of hearing officer
1351 decisions.

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

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

§ 16.1-263. Summonses.

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

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

C. The judge may endorse upon the summons an order directing the parents, guardian ~~or other~~ , legal custodian, *other person standing in loco parentis or other person* having the custody or control of the juvenile to bring the juvenile to the hearing.

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

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

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

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

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

C. The judge may endorse upon the summons an order directing the parents, guardian ~~or other~~ , legal custodian, *other person standing in loco parentis or other person* having the custody or control of the juvenile to bring the juvenile to the hearing.

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

E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent ~~or~~ , guardian, *legal custodian or other person standing in loco parentis* is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably

ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

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

§ 16.1-266. Appointment of counsel.

A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition terminating residual parental rights or is otherwise before the court pursuant to subdivision A 4 of § 16.1-241, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child pursuant to § 16.1-266.1.

B. Prior to the detention review hearing or the adjudicatory or transfer hearing by the court of any case involving a child who is alleged to be in need of services, in need of supervision or delinquent, such child and his or her ~~parent~~ parents, guardian, legal custodian or other person standing in loco parentis shall be informed by a judge, clerk or probation officer of the child's right to counsel and of the liability of the parent, guardian, legal custodian or other person standing in loco parentis for the costs of such legal services pursuant to § 16.1-267 and be given an opportunity to:

1. Obtain and employ counsel of the child's own choice; or

2. If the court determines that the child is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159 and his or her ~~parent~~ parents, guardian, legal custodian or other person standing in loco parentis does not retain an attorney for the child, a statement of indigence substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such child, and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney, if the court finds the child and the ~~parent~~ parents, guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, to such waiver and that the interests of the child and the parent, guardian, legal custodian or other person standing in loco parentis in the proceeding are not adverse. Such written waiver shall be in accordance with law and shall be filed with the court records of the case.

C. Prior to the hearing by the court of any case involving a parent, guardian or other ~~adult person responsible for his care~~ charged with abuse or neglect of a child or a ~~parent or guardian who could be subjected to the loss of residual parental rights and responsibilities~~, such ~~parent, guardian or other adult~~ shall be informed by a judge, clerk or probation officer of his right to counsel and be given an opportunity to:

1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

D. In all other cases which in the discretion of the court require counsel or a guardian ad litem to represent the interests of the child or children or the ~~parent or parents~~, guardian, *legal custodian, other person standing in loco parentis or other family or household member* a discreet and competent attorney-at-law may be appointed by the court. However, in cases where the custody of a child or children is the subject of controversy or requires determination and each of the parents or other persons claiming a right to custody is represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent the interests of the child or children unless the court finds, at any stage in the proceedings in a specific case, that the interests of the child or children are not otherwise adequately represented.

§ 16.1-266. (Delayed effective date) Appointment of counsel.

A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition terminating residual parental rights or is otherwise before the court pursuant to subdivision A 4 of § 16.1-241, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child pursuant to § 16.1-266.1.

B. Prior to the detention review hearing or the adjudicatory or transfer hearing by the court of any case involving a child who is alleged to be in need of services, in need of supervision or delinquent, such child and his or her ~~parent~~ parents, guardian, legal custodian or other person standing in loco parentis shall be informed by a judge, clerk or probation officer of the child's right to counsel and of the liability of the parent, guardian, legal custodian or other person standing in loco parentis for the costs of such legal services pursuant to § 16.1-267 and be given an opportunity to:

1. Obtain and employ counsel of the child's own choice; or

2. If the court determines that the child is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159 and his or her parent, guardian, legal custodian or other person standing in loco parentis does not retain an attorney for the child, a statement of indigence substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such child, and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney, if the court finds the child and the ~~parent~~ *parents*, guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, to such waiver and that the interests of the child and the parent, guardian, legal custodian or other person standing in loco parentis in the proceeding are not adverse. Such written waiver shall be in accordance with law and shall be filed with the court records of the case.

C. Prior to the hearing by the court of any case involving a parent, guardian or other ~~adult person responsible for his care~~ charged with abuse or neglect of a child ~~or a parent or guardian who could be subjected to the loss of residual parental rights and responsibilities~~, such parent, guardian or other adult shall be informed by a judge, clerk or probation officer of his right to counsel and be given an opportunity to:

1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

D. In all other cases which in the discretion of the court require counsel or a guardian ad litem to represent the interests of the child or children or ~~the parent or parents~~, guardian, *legal custodian, other person standing in loco parentis or other family or household member* a discreet and competent attorney-at-law may be appointed by the court. However, (i) in cases where the custody of a child or children is the subject of controversy or requires determination and each of the parents or other persons claiming a right to custody is represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent the interests of the child or children unless the court finds, at any stage in the proceedings in a specific case, that the interests of the child or children are not otherwise adequately represented; and (ii) in suits for divorce, annulment or affirmation of marriage, separate maintenance, or equitable distribution based on a foreign decree; in petitions for adoption, amendment of a record of birth, and change of name; or judicial review of school board actions or hearing officer decisions, the court shall appoint counsel or a guardian ad litem to represent the interests of a party only as provided in § 8.01-9.

§ 16.1-267. Compensation of appointed counsel.

A. When the court appoints counsel to represent a child pursuant to § 16.1-266 A and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parent for such legal services in the amount awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision (1) of § 19.2-163 if the action is in district court.

When the court appoints counsel to represent a child pursuant to § 16.1-266 B and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the parents for such legal services in the amount awarded the attorney by the court. Such amount shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision (1) of § 19.2-163 if the action is in district court. In determining the financial ability of the parents to pay for an attorney to represent the child, the court shall utilize the financial statement required by § 19.2-159.

In all other cases, except as provided in § 16.1-343, counsel appointed to represent a child shall be compensated for his services pursuant to § 19.2-163.

B. When the court appoints counsel to represent a parent, guardian, *legal custodian* or other ~~adult~~ *person standing in loco parentis* pursuant to § 16.1-266, such counsel shall be compensated for his services pursuant to § 19.2-163.

§ 16.1-267. (Delayed effective date) Compensation of appointed counsel.

A. When the court appoints counsel to represent a child pursuant to § 16.1-266 A and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parent for such legal services in the amount awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision

1536 (1) of § 19.2-163 if the action is in family court.

1537 When the court appoints counsel to represent a child pursuant to § 16.1-266 B and, after an
1538 investigation by the court services unit, finds that the parents are financially able to pay for the attorney
1539 in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the
1540 parents for such legal services in the amount awarded the attorney by the court. Such amount shall not
1541 exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision (1) of
1542 § 19.2-163 if the action is in family court. In determining the financial ability of the parents to pay for
1543 an attorney to represent the child, the court shall utilize the financial statement required by § 19.2-159.

1544 In all other cases, except as provided in § 16.1-343, counsel appointed to represent a child shall be
1545 compensated for his services pursuant to § 19.2-163.

1546 B. When the court appoints counsel to represent a parent, guardian, *legal custodian* or other ~~adult~~
1547 *person standing in loco parentis* pursuant to § 16.1-266, such counsel shall be compensated for his
1548 services pursuant to § 19.2-163.

1549 § 16.1-268. Order of appointment.

1550 The order of appointment of counsel pursuant to § 16.1-266 shall be filed with and become a part of
1551 the record of such proceeding. The attorney so appointed shall represent the child or parent, guardian,
1552 *legal custodian* or other ~~adult~~ *person standing in loco parentis* at any such hearing and at all other
1553 stages of the proceeding unless relieved or replaced in the manner provided by law.

1554 § 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.

1555 A. Except as provided in subsections B and C, if a juvenile fourteen years of age or older at the time
1556 of an alleged offense is charged with an offense which would be a felony if committed by an adult, the
1557 court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold
1558 a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to
1559 the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any
1560 transfer to the appropriate circuit court shall be subject to the following conditions:

1561 1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his ~~parent~~
1562 *parents*, guardian, legal custodian or other person standing in loco parentis; or attorney;

1563 2. The juvenile court finds that probable cause exists to believe that the juvenile committed the
1564 delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by
1565 an adult;

1566 3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden
1567 is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the
1568 evidence; and

1569 4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to
1570 remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person
1571 to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the
1572 following factors:

1573 a. The juvenile's age;

1574 b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was
1575 committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense
1576 was against persons or property, with greater weight being given to offenses against persons, especially
1577 if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater
1578 than twenty years confinement if committed by an adult; (iv) whether the alleged offense involved the
1579 use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise
1580 employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

1581 c. Whether the juvenile can be retained in the juvenile justice system long enough for effective
1582 treatment and rehabilitation;

1583 d. The appropriateness and availability of the services and dispositional alternatives in both the
1584 criminal justice and juvenile justice systems for dealing with the juvenile's problems;

1585 e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the
1586 number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of
1587 prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional
1588 centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether
1589 previous adjudications and commitments were for delinquent acts that involved the infliction of serious
1590 bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated
1591 offenses;

1592 f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional
1593 entity in this or any other jurisdiction;

1594 g. The extent, if any, of the juvenile's degree of mental retardation or mental illness;

1595 h. The juvenile's school record and education;

1596 i. The juvenile's mental and emotional maturity; and

1597 j. The juvenile's physical condition and physical maturity.

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

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with murder in violation of §§ 18.2-31, 18.2-32 or § 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2.

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of § 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection at least seven days prior to the preliminary hearing. 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. Such 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 warrant or if the petition or warrant is terminated by dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

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

E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

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

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

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his ~~parent~~ parents, 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. The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the family court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the family court, the court shall consider, but not be limited to, the following factors:

a. The juvenile's age;

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

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

d. The appropriateness and availability of the services and dispositional alternatives in both the

1659 criminal justice and juvenile justice systems for dealing with the juvenile's problems;

1660 e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the
1661 number and nature of previous contacts with family or circuit courts, (ii) the number and nature of prior
1662 periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers,
1663 (iv) the number and nature of previous residential and community-based treatments, (v) whether previous
1664 adjudications and commitments were for delinquent acts that involved the infliction of serious bodily
1665 injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

1666 f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional
1667 entity in this or any other jurisdiction;

1668 g. The extent, if any, of the juvenile's degree of mental retardation or mental illness;

1669 h. The juvenile's school record and education;

1670 i. The juvenile's mental and emotional physical maturity; and

1671 j. The juvenile's physical condition and physical maturity.

1672 No transfer decision shall be precluded or reversed on the grounds that the court failed to consider
1673 any of the factors specified in subdivision A 4 of § 16.1-269.1.

1674 B. The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or
1675 older is charged with murder in violation of §§ 18.2-31, 18.2-32 or § 18.2-40 or aggravated malicious
1676 wounding in violation of § 18.2-51.2.

1677 C. The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or
1678 older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of
1679 § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious
1680 wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of
1681 § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or
1682 carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of
1683 § 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2 provided the attorney for the
1684 Commonwealth gives written notice of his intent to proceed pursuant to this subsection at least seven
1685 days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such
1686 notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he
1687 may proceed as provided in subsection A.

1688 D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the
1689 family court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall
1690 divest the family court of jurisdiction as to the charge and any ancillary charges.

1691 If the court does not find probable cause to believe that the juvenile has committed the violent
1692 juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by
1693 dismissal in the family court, the attorney for the Commonwealth may seek a direct indictment in the
1694 circuit court. If the petition or warrant is terminated by nolle prosequi in the family court, the attorney
1695 for the Commonwealth may seek an indictment only after a preliminary hearing in family court.

1696 If the court finds that the juvenile was not fourteen years of age or older at the time of the alleged
1697 commission of the offense or that the conditions specified in subdivision 1, 2, or 3 of subsection A have
1698 not been met, the case shall proceed as otherwise provided for by law.

1699 E. An indictment in the circuit court cures any error or defect in any proceeding held in the family
1700 court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the
1701 Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

1702 § 16.1-277. Standards for entrustment.

1703 Where a parent, *guardian* or ~~other~~ *legal* custodian seeks to be relieved of the care and custody of
1704 any child pursuant to subdivision A 4 of § 16.1-241, or where a public or private agency seeks to gain
1705 approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the court shall grant the
1706 requested relief only if it finds that: (i) suitable alternative placements exist for such child, (ii) the child
1707 is in need of such alternative placement and (iii) a transfer of legal custody and placement outside the
1708 child's present home would not detrimentally affect the child's life, health or development.

1709 § 16.1-278.1. Definitions.

1710 As used in this article, unless the context clearly indicates otherwise:

1711 "Parent" includes ~~parent~~ *parents*, guardian, legal custodian, or other person standing in loco parentis.

1712 "Public service project" means any governmental or quasi-governmental agency project or any project
1713 of a nonprofit corporation or association operated exclusively for charitable or community purposes.

1714 § 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.

1715 If a child is found to be (i) abused or neglected, (ii) at risk of being abused or neglected by a parent
1716 or ~~eustodian~~ *other person responsible for his care* who has been adjudicated as having abused or
1717 neglected another child in his care, or (iii) abandoned by his parent or other custodian, or without
1718 parental care and guardianship because of his parent's absence or physical or mental incapacity, the
1719 juvenile court or the circuit court may make any of the following orders of disposition to protect the
1720 welfare of the child:

1. Enter an order pursuant to the provisions of § 16.1-278;
 2. Permit the child to remain with his parent, subject to such conditions and limitations as the court may order with respect to such child and his ~~parent or other adult occupant of the same dwelling~~ *parents, guardian, legal custodian, other person standing in loco parentis or other family or household member*;
 3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter which may include limiting or prohibiting contact for another 180 days;
 4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child-caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents ~~or guardians~~, *guardian or legal custodian* shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency which places the child shall have the final authority to determine the appropriate placement for the child.
- Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.
5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the provisions of § 16.1-281, to any of the following:
 - a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child;
 - b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or
 - c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of public welfare or social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.
 - Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.
 6. Transfer legal custody pursuant to subdivision 5 of this section and order the ~~parent~~ *parents, guardian, legal custodian, other person standing in loco parentis or other family or household member* to participate in such services and programs or to refrain from such conduct as the court may prescribe; or
 7. Terminate the rights of the parent pursuant to § 16.1-283.
- § 16.1-278.2. (Delayed effective date) Abused, neglected, or abandoned children or children without parental care.
- If a child is found to be (i) abused or neglected, (ii) at risk of being abused or neglected by a parent or ~~custodian or other person responsible for his care~~ who has been adjudicated as having abused or neglected another child in his care, or (iii) abandoned by his parent or other custodian, or without parental care and guardianship because of his parent's absence or physical or mental incapacity, the family court may make any of the following orders of disposition to protect the welfare of the child:
1. Enter an order pursuant to the provisions of § 16.1-278;
 2. Permit the child to remain with his parent, subject to such conditions and limitations as the court may order with respect to such child and his ~~parent or other adult occupant of the same dwelling~~ *parents, guardian, legal custodian, other person standing in loco parentis or other family or household member*;

3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter which may include limiting or prohibiting contact for another 180 days;

4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child caring-institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians, *guardian or legal custodian* shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency which places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the provisions of § 16.1-281, to any of the following:

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

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of public welfare or social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

6. Transfer legal custody pursuant to subdivision 5 of this section and order the ~~parent~~ *parents, guardian, legal custodian, other person standing in loco parentis or other family or household member* to participate in such services and programs or to refrain from such conduct as the court may prescribe; or

7. Terminate the rights of the parent pursuant to § 16.1-283.
§ 16.1-278.3. Relief of care and custody; entrustment.

When a parent or ~~other~~, *guardian or legal custodian* seeks to be relieved of the care and custody of any child pursuant to subdivision A 4 of § 16.1-241 or when a public or private agency seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the juvenile court or the circuit court may, after compliance with § 16.1-277, make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2.

If the parent or ~~other~~, *guardian or legal custodian* seeks to be relieved permanently of the care and custody of any child or when a public or private agency seeks to gain approval of a permanent entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204, the juvenile court or the circuit court may, after compliance with § 16.1-277, terminate the parental rights of the parent or other custodian and appoint a local board of public welfare or social services or a licensed child-placing agency as custodian of the child with the authority to place the child for adoption and consent thereto. The remaining parent's parental rights may be terminated even though that parent has not entered into an entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to § 8.01-296 or § 8.01-320; (iii)

the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of termination proceedings by certified or registered mail to the last known address and such parent fails to object to the proceedings within twenty-one days of the mailing of such notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of termination proceedings through an order of publication, published at least once per week in a newspaper having general circulation in the area for a period of four weeks, and such parent fails to object to the proceedings. Proceedings under this section shall be advanced on the docket so as to provide for their earliest practicable disposition. No order of disposition pursuant to this section shall be made over the objection of any party, if the disposition was not provided for or requested in the entrustment agreement or in the petition's prayer for relief.

§ 16.1-278.3. (Delayed effective date) Relief of care and custody; entrustment.

When a parent ~~or other~~, *guardian or legal* custodian seeks to be relieved of the care and custody of any child pursuant to subdivision A 4 of § 16.1-241 or when a public or private agency seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the family court may, after compliance with § 16.1-277, make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2.

If the parent ~~or other~~, *guardian or legal* custodian seeks to be relieved permanently of the care and custody of any child or when a public or private agency seeks to gain approval of a permanent entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204, the family court may, after compliance with § 16.1-277, terminate the parental rights of the parent or other custodian and appoint a local board of public welfare or social services or a licensed child-placing agency as custodian of the child with the authority to place the child for adoption and consent thereto. The remaining parent's parental rights may be terminated even though that parent has not entered into an entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to § 8.01-296 or § 8.01-320; (iii) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of termination proceedings by certified or registered mail to the last known address and such parent fails to object to the proceedings within twenty-one days of the mailing of such notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of termination proceedings through an order of publication, published at least once per week in a newspaper having general circulation in the area for a period of four weeks, and such parent fails to object to the proceedings. Proceedings under this section shall be advanced on the docket so as to provide for their earliest practicable disposition. No order of disposition pursuant to this section shall be made over the objection of any party, if the disposition was not provided for or requested in the entrustment agreement or in the petition's prayer for relief.

§ 16.1-278.4. Children in need of services.

If a child is found to be in need of services, the juvenile court or the circuit court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

1. Enter an order pursuant to the provisions of § 16.1-278.
2. Permit the child to remain with his parent subject to such conditions and limitations as the court may order with respect to such child and his parent.

3. Order the parent, *guardian, legal custodian, other person standing in loco parentis or other family or household member* with whom the child is living to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and his parent *or other such person*.

4. Beginning July 1, 1992, in the case of any child fourteen years of age or older, where the court finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance as provided under § 22.1-257 or authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of eighteen.

5. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child caring-institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency which places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued

1905 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1906 6. Transfer legal custody to any of the following:

1907 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
1908 care for the child;

1909 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
1910 by law to receive and provide care for such child. The court shall not transfer legal custody of a child in
1911 need of services to an agency, organization or facility out of the Commonwealth without the approval of
1912 the Commissioner of Social Services; or

1913 c. The local board of public welfare or social services of the county or city in which the court has
1914 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child
1915 has residence if other than the county or city in which the court has jurisdiction. The local board shall
1916 accept the child for care and custody, provided that it has been given reasonable notice of the pendency
1917 of the case and an opportunity to be heard. However, in an emergency in the county or city in which
1918 the court has jurisdiction, the local board may be required to accept a child for a period not to exceed
1919 fourteen days without prior notice or an opportunity to be heard if the judge entering the placement
1920 order describes the emergency and the need for such temporary placement in the order. Nothing in this
1921 subdivision shall prohibit the commitment of a child to any local board of public welfare or social
1922 services in the Commonwealth when the local board consents to the commitment. The board to which
1923 the child is committed shall have the final authority to determine the appropriate placement for the
1924 child.

1925 Any order authorizing removal from the home and transferring legal custody of a child to a local
1926 board of public welfare or social services as provided in this subdivision shall be entered only upon a
1927 finding by the court that reasonable efforts have been made to prevent removal and that continued
1928 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1929 7. Require the child to participate in a public service project under such conditions as the court
1930 prescribes.

1931 § 16.1-278.4. (Delayed effective date) Children in need of services.

1932 If a child is found to be in need of services, the family court or the circuit court may make any of
1933 the following orders of disposition for the supervision, care and rehabilitation of the child:

1934 1. Enter an order pursuant to the provisions of § 16.1-278.

1935 2. Permit the child to remain with his parent subject to such conditions and limitations as the court
1936 may order with respect to such child and his parent.

1937 3. Order the parent, *guardian, legal custodian, other person standing in loco parentis or other family*
1938 *or household member* with whom the child is living to participate in such programs, cooperate in such
1939 treatment or be subject to such conditions and limitations as the court may order and as are designed for
1940 the rehabilitation of the child and his parent *or other such person*.

1941 4. In the case of any child fourteen years of age or older, where the court finds that the child is not
1942 able to benefit appreciably from further schooling, the court may excuse the child from further
1943 compliance with any legal requirement of compulsory school attendance as provided under § 22.1-257 or
1944 authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation
1945 which is not legally declared hazardous for children under the age of eighteen.

1946 5. Permit the local board of social services or a public agency designated by the community policy
1947 and management team to place the child, subject to the provisions of § 16.1-281, in suitable family
1948 homes, child caring-institutions, residential facilities, or independent living arrangements with legal
1949 custody remaining with the parents or guardians. The local board or public agency and the ~~parents or~~
1950 ~~guardians~~ *parent, guardian or legal custodian* shall enter into an agreement which shall specify the
1951 responsibilities of each for the care and control of the child. The board or public agency which places
1952 the child shall have the final authority to determine the appropriate placement for the child.

1953 Any order allowing a local board or public agency to place a child where legal custody remains with
1954 the parents or guardians as provided in this section shall be entered only upon a finding by the court
1955 that reasonable efforts have been made to prevent placement out of the home and that continued
1956 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1957 6. Transfer legal custody to any of the following:

1958 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
1959 care for the child;

1960 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
1961 by law to receive and provide care for such child. The court shall not transfer legal custody of a child in
1962 need of services to an agency, organization or facility out of the Commonwealth without the approval of
1963 the Commissioner of Social Services; or

1964 c. The local board of public welfare or social services of the county or city in which the court has
1965 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child
1966 has residence if other than the county or city in which the court has jurisdiction. The local board shall

accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a child to any local board of public welfare or social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

7. Require the child to participate in a public service project under such conditions as the court prescribes.

§ 16.1-278.5. Children in need of supervision.

A. If a child is found to be in need of supervision, the court shall, before final disposition of the case, direct the appropriate public agency to evaluate the child's service needs using an interdisciplinary team approach. The team shall consist of qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.1-753. A report of the evaluation shall be filed as provided in § 16.1-274 A.

B. The court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

1. Enter any order of disposition authorized by § 16.1-278.4 for a child found to be in need of services;

2. Place the child on probation under such conditions and limitations as the court may prescribe including suspension of the child's driver's license upon terms and conditions which may include the issuance of a restricted license for those purposes set forth in subsection E of § 18.2-271.1;

3. Order the child and/or his ~~parent~~ *parents, guardian, legal custodian, other person standing in loco parentis or other family or household member* to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child;

4. Require the child to participate in a public service project under such conditions as the court may prescribe; or

5. a. Beginning July 1, 1992, in the case of any child subject to compulsory school attendance as provided in § 22.1-254, where the court finds that the child's parent is in violation of §§ 22.1-254, 22.1-255, 22.1-265, or § 22.1-267, in addition to any penalties provided in § 22.1-263 or § 22.1-265, the court may order the parent with whom the child is living to participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and/or the parent. Upon the failure of the parent to so participate or cooperate, or to comply with the conditions and limitations that the court orders, the court may impose a fine of not more than \$100 for each day in which the person fails to comply with the court order.

b. If the court finds that the parent has willfully disobeyed a lawful process, judgment, decree, or court order requiring such person to comply with the compulsory school attendance law, in addition to any conditions or limitations that the court may order or any penalties provided by §§ 16.1-278.2 through 16.1-278.19, 22.1-263 or § 22.1-265, the court may impose the penalty authorized by § 18.2-371.

C. Any order entered pursuant to this section shall be provided in writing to the child, his parent or guardian, legal custodian, *other person standing in loco parentis, or other family or household member* and to the child's attorney and shall contain adequate notice of the provisions of § 16.1-292 regarding willful violation of such order.

§ 16.1-278.5. (Delayed effective date) Children in need of supervision.

A. If a child is found to be in need of supervision, the court shall, before final disposition of the case, direct the appropriate public agency to evaluate the child's service needs using an interdisciplinary team approach. The team shall consist of qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.1-753. A report of the evaluation shall be filed as

2028 provided in § 16.1-274 A.

2029 B. The court may make any of the following orders of disposition for the supervision, care and
2030 rehabilitation of the child:

2031 1. Enter any order of disposition authorized by § 16.1-278.4 for a child found to be in need of
2032 services;

2033 2. Place the child on probation under such conditions and limitations as the court may prescribe
2034 including suspension of the child's driver's license upon terms and conditions which may include the
2035 issuance of a restricted license for those purposes set forth in subsection E of § 18.2-271.1;

2036 3. Order the child and/or his ~~parent~~ *parents, guardian, legal custodian, other person standing in loco*
2037 *parentis or other family or household member* to participate in such programs, ~~cooperate~~ *cooperate in*
2038 such treatment or be subject to such conditions and limitations as the court may order and as are
2039 designed for the rehabilitation of the child;

2040 4. Require the child to participate in a public service project under such conditions as the court may
2041 prescribe; or

2042 5. a. In the case of any child subject to compulsory school attendance as provided in § 22.1-254,
2043 where the court finds that the child's parent is in violation of §§ 22.1-254, 22.1-255, 22.1-265, or
2044 § 22.1-267, in addition to any penalties provided in § 22.1-263 or § 22.1-265, the court may order the
2045 parent with whom the child is living to participate in such programs, cooperate in such treatment, or be
2046 subject to such conditions and limitations as the court may order and as are designed for the
2047 rehabilitation of the child and/or the parent. Upon the failure of the parent to so participate or cooperate,
2048 or to comply with the conditions and limitations that the court orders, the court may impose a fine of
2049 not more than \$100 for each day in which the person fails to comply with the court order.

2050 b. If the court finds that the parent has willfully disobeyed a lawful process, judgment, decree, or
2051 court order requiring such person to comply with the compulsory school attendance law, in addition to
2052 any conditions or limitations that the court may order or any penalties provided by §§ 16.1-278.2
2053 through 16.1-278.19, 22.1-263 or § 22.1-265, the court may impose the penalty authorized by
2054 § 18.2-371.

2055 C. Any order entered pursuant to this section shall be provided in writing to the child, his parent or,
2056 *guardian, legal custodian, other person standing in loco parentis, or other family or household member*
2057 and to the child's attorney and shall contain adequate notice of the provisions of § 16.1-292 regarding
2058 willful violation of such order.

2059 § 16.1-278.8. Delinquent juveniles.

2060 If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood
2061 or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court
2062 may make any of the following orders of disposition for his supervision, care and rehabilitation:

2063 1. Enter an order pursuant to the provisions of § 16.1-278;

2064 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
2065 court may order with respect to the juvenile and his ~~parent~~ *parents, guardian, legal custodian, other*
2066 *person standing in loco parentis or other family or household member*;

2067 3. Order the ~~parent~~ *parents, guardian, legal custodian, other person standing in loco parentis or*
2068 *other family or household member* of a juvenile living with him to participate in such programs,
2069 cooperate in such treatment or be subject to such conditions and limitations as the court may order and
2070 as are designed for the rehabilitation of the juvenile and his ~~parent~~ *parents, guardian, legal custodian,*
2071 *other person standing in loco parentis or other family or household member*;

2072 4. Defer disposition for a period of time not to exceed twelve months, after which time the charge
2073 may be dismissed by the judge if the juvenile exhibits good behavior during the period for which
2074 disposition is deferred;

2075 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a
2076 boot camp established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for commitment
2077 to the Department, (ii) has not previously been and is not currently being adjudicated delinquent or
2078 found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp and (iv) has not
2079 previously been committed to and received by the Department. Upon the juvenile's withdrawal, removal
2080 or refusal to comply with the terms and conditions of participation in the program, he shall be brought
2081 before the court for a hearing at which the court may impose any other disposition as authorized by this
2082 section which could have been imposed at the time the juvenile was placed in the custody of the
2083 Department;

2084 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer
2085 disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile
2086 on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the
2087 terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him.
2088 Discharge and dismissal under these provisions shall be without adjudication of guilt;

2089 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such

programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

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

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

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

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

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

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

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

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

13. Transfer legal custody to any of the following:

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

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

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

14. Commit the juvenile to the Department of Juvenile Justice, but only if he is older than ten years of age and the current offense is (i) an offense which would be a felony if committed by an adult or (ii)

2151 an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has
2152 previously been found to be delinquent based on an offense which would be either a felony or Class 1
2153 misdemeanor if committed by an adult;

2154 15. Impose the penalty authorized by § 16.1-284;

2155 16. Impose the penalty authorized by § 16.1-284.1;

2156 17. Impose the penalty authorized by § 16.1-285.1; or

2157 18. Impose the penalty authorized by § 16.1-278.9.

2158 § 16.1-278.8. (Delayed effective date) Delinquent juveniles.

2159 If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood
2160 or breath test in violation of § 18.2-268.2 or a similar ordinance, the family court or the circuit court
2161 may make any of the following orders of disposition for his supervision, care and rehabilitation:

2162 1. Enter an order pursuant to the provisions of § 16.1-278;

2163 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
2164 court may order with respect to the juvenile and his ~~parent~~ *parents, guardian, legal custodian, other*
2165 *person standing in loco parentis or other family or household member;*

2166 3. Order the ~~parent~~ *parents, guardian, legal custodian, other person standing in loco parentis or*
2167 *other family or household member* of a juvenile living with him to participate in such programs,
2168 cooperate in such treatment or be subject to such conditions and limitations as the court may order and
2169 as are designed for the rehabilitation of the juvenile and his ~~parent~~ *parents, guardian, legal custodian,*
2170 *other person standing in loco parentis or other family or household member;*

2171 4. Defer disposition for a period of time not to exceed twelve months, after which time the charge
2172 may be dismissed by the judge if the juvenile exhibits good behavior during the period for which
2173 disposition is deferred;

2174 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a
2175 boot camp established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for commitment
2176 to the Department, (ii) has not previously been and is not currently being adjudicated delinquent or
2177 found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp and (iv) has not
2178 previously been committed to and received by the Department. Upon the juvenile's withdrawal, removal
2179 or refusal to comply with the terms and conditions of participation in the program, he shall be brought
2180 before the court for a hearing at which the court may impose any other disposition as authorized by this
2181 section which could have been imposed at the time the juvenile was placed in the custody of the
2182 Department;

2183 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer
2184 disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile
2185 on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the
2186 terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him.
2187 Discharge and dismissal under these provisions shall be without adjudication of guilt;

2188 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such
2189 programs, cooperate in such treatment or be subject to such conditions and limitations as the court may
2190 order and as are designed for the rehabilitation of the juvenile where the court determines this
2191 participation to be in the best interest of the juvenile and other parties concerned and where the court
2192 determines it reasonable to expect the parent to be able to comply with such order;

2193 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

2194 8. Impose a fine not to exceed \$500 upon such juvenile;

2195 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile
2196 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is
2197 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such
2198 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of
2199 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who
2200 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to
2201 and from school. The restricted permit shall be issued in accordance with the provisions of such
2202 subsection. However, only an abstract of the court order which identifies the juvenile and the conditions
2203 under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

2204 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the
2205 physical custody of the court during any period of curfew restriction. The court shall send an abstract of
2206 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall
2207 preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this
2208 chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement
2209 officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be
2210 noted all curfew restrictions, shall be provided to the juvenile and shall contain such information
2211 regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor
2212 vehicle under the court order in accordance with its terms.

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

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

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

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

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

13. Transfer legal custody to any of the following:

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

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

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

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

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

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

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

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

§ 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services or a public agency designated by the community policy and management team places a child through an agreement with the parents or guardians where legal custody remains with the parents ~~or~~, guardian, *legal custodian or other person standing in loco parentis* or (ii) legal custody of a child is given to a local board of public welfare or social services or a child welfare agency, the department of public welfare or social services, the public agency designated or child welfare agency or the family assessment and planning team established pursuant to § 2.1-753 shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.1-754 may be accepted by the court as the foster care plan if it meets the requirements of this section. The representatives of such department, agency, or team shall consult with the child's parents, except when parental rights have been terminated, ~~and any guardian, legal custodian or other person or persons~~ standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the public agency placed the child, concerning the matters which should be included in such plan. The department, public agency, child welfare agency or team shall file the plan with the juvenile and domestic relations district court within sixty days following the transfer of custody or the board's or public agency's placement of the child unless the court, for good cause shown, allows an extension of

time, which shall not exceed an additional sixty days. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within sixty days following transfer of custody to the board or agency or the board's or public agency's placement of the child.

B. The foster care plan shall describe (i) the programs, care, services and other support which will be offered to the child and his parents ~~and other prior custodians~~, *guardian, legal custodian or other person standing in loco parentis*, (ii) the participation and conduct which will be sought from the child's parents ~~and other prior custodians~~, *guardian, legal custodian or other person standing in loco parentis*, (iii) the visitation and other contacts which will be permitted between the child and his parents ~~and other prior custodians~~, *guardian, legal custodian or other person standing in loco parentis*, (iv) the nature of the placement or placements which will be provided for the child, and (v) in writing and where appropriate for children age sixteen or over, the programs and services which will help the child prepare for the transition from foster care to independent living. The plan shall be designed to lead to the return of the child to his parents ~~or other prior custodians~~, *guardian, legal custodian or other person standing in loco parentis* within the shortest practicable time which shall be specified in the plan. However, if the department, child welfare agency or team determines that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (i) include a full description of the reasons for this conclusion, (ii) determine the opportunities for placing the child with a relative or in an adoptive home, (iii) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible, (iv) explain why permanent foster care or continued foster care is the plan for the child. The department or agency may include with such proposed plan a proper pleading seeking the termination of residual parental rights pursuant to § 16.1-283.

C. A copy of the entire foster care plan shall be sent by the court to the attorney for the child, the child's parents ~~or any other person standing in loco parentis~~, *guardian, legal custodian or other person standing in loco parentis* at the time the board or child welfare agency obtained custody or the board or public agency placed the child and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan, excluding the section of the plan describing the reasons why the child cannot be returned home and the alternative chosen, shall be sent by the court to the foster parents. Any party receiving a copy of the plan may petition the court for a review of the plan. The judge shall review each petition so filed to determine if there is good cause shown for a hearing on the plan. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents ~~or other persons standing in loco parentis~~, *guardian, legal custodian or other person standing in loco parentis* at the time the board or agency obtained custody or the board or public agency placed the child.

E. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of public welfare or social services or placed by local boards of social services or the public agency designated by the community policy and management team on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

§ 16.1-281. (Delayed effective date) Foster care plan.

A. In any case in which (i) a local board of social services or a public agency designated by the community policy and management team places a child through an agreement with the parents or guardians where legal custody remains with the parents ~~or~~, *guardian, legal custodian or other person standing in loco parentis* or (ii) legal custody of a child is given to a local board of public welfare or social services, the department of public welfare or social services, the public agency designated or child welfare agency or the family assessment and planning team established pursuant to § 2.1-753 shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.1-754 may be accepted by the court as the foster care plan if it meets the requirements of this section. The representatives of such department, agency or team shall consult with the child's parents, except when parental rights have been terminated, ~~and any guardian, legal custodian or other person or persons~~ standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the public agency placed the child, concerning the matters which should be included in such plan. The department, public agency, child welfare agency or team shall file the plan with the family court within sixty days following the transfer of custody or the board's or public agency's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional sixty days. A foster care

plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within sixty days following transfer of custody to the board or agency or the board's or public agency's placement of the child.

B. The foster care plan shall describe (i) the programs, care, services and other support which will be offered to the child and his parents ~~and other prior eustodians~~, *guardian, legal custodian or other person standing in loco parentis*, (ii) the participation and conduct which will be sought from the child's parents ~~and other prior eustodians~~, *guardian, legal custodian or other person standing in loco parentis*, (iii) the visitation and other contacts which will be permitted between the child and his parents ~~and other prior eustodians~~, *guardian, legal custodian or other person standing in loco parentis*, (iv) the nature of the placement or placements which will be provided for the child, and (v) in writing and where appropriate for children age sixteen or over, the programs and services which will help the child prepare for the transition from foster care to independent living. The plan shall be designed to lead to the return of the child to his parents ~~or other prior eustodians~~, *guardian, legal custodian or other person standing in loco parentis* within the shortest practicable time which shall be specified in the plan. However, if the department, child welfare agency or team determines that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (i) include a full description of the reasons for this conclusion, (ii) determine the opportunities for placing the child with a relative or in an adoptive home, (iii) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible, (iv) explain why permanent foster care or continued foster care is the plan for the child. The department or agency may include with such proposed plan a proper pleading seeking the termination of residual parental rights pursuant to § 16.1-283.

C. A copy of the entire foster care plan shall be sent by the court to the attorney for the child, the child's parents, *guardian, legal custodian or any other person standing in loco parentis* at the time the board or child welfare agency obtained custody or the board or public agency placed the child and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan, excluding the section of the plan describing the reasons why the child cannot be returned home and the alternative chosen, shall be sent by the court to the foster parents. Any party receiving a copy of the plan may petition the court for a review of the plan. The judge shall review each petition so filed to determine if there is good cause shown for a hearing on the plan. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board or public agency placed the child.

E. Nothing in this section shall limit the authority of the judge or the staff of the family court, upon order of the judge, to review the status of children in the custody of local boards of public welfare or social services or placed by local boards of social services or the public agency designated by the community policy and management team on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

§ 16.1-282. Foster care review.

A. This section shall apply to all children placed through an agreement between the parents ~~or guardians~~, *guardian, legal custodian or other person standing in loco parentis* and the local board of social services or a public agency designated by the community policy and management team where legal custody remains with the parents ~~or guardians~~, *guardian, legal custodian or other person standing in loco parentis* or under the legal custody of a local board of public welfare or social services or a child welfare agency (i) who were the subjects of a foster care plan filed with the court pursuant to § 16.1-281 and (ii) who have not been returned to their prior family or placed in an adoptive home within ten months following the initial foster care placement of the child.

B. Any interested party, including the parent, *guardian, legal custodian* or person who stood in loco parentis prior to the board's or child welfare agency's assumption of legal custody or the board's or public agency's placement of the child, may file with the court the petition hereinafter described for each such child within ten months after the initial foster care placement of the child. However, if a petition is not filed by such interested party, then the board or child welfare agency having legal custody or the board or public agency placing the child shall file the petition within ten months after the initial foster care placement.

The petition shall:

2397 1. Be filed in the court in which the foster care plan was filed for the child. Upon the order of such
2398 court, however, the petition may be filed in the court of the county or city in which the board or child
2399 welfare agency having legal custody or having placed the child has its principal office or where the
2400 child resides;

2401 2. Include a copy of the foster care plan previously filed for such child;

2402 3. State, if such is reasonably obtainable, the current address of the child's parents and, if the child
2403 was in the custody of a *guardian, legal custodian or other person* ~~or persons~~ standing in loco parentis at
2404 the time the board or child welfare agency obtained legal custody or the board or public agency placed
2405 the child, of such person or persons;

2406 4. Describe the placement or placements provided for the child while in foster care and the services
2407 or programs offered to the child and his parents and, if applicable, ~~the persons previously guardian,~~
2408 *legal custodian or other person* standing in loco parentis;

2409 5. Describe the nature and frequency of the contacts between the child and his parents and, if
2410 applicable, ~~the persons previously guardian, legal custodian or other person~~ standing in loco parentis;

2411 6. Set forth in detail the manner in which the foster care plan previously filed with the court was or
2412 was not complied with and the extent to which the goals thereof have been met; and

2413 7. Set forth the disposition sought and the grounds therefor; however, if a continuation of foster care
2414 is recommended, a foster care plan for such period of continued foster care shall also be included and
2415 shall address (i) the role the current foster parents or other care providers will play in the future
2416 planning for the child and (ii) in the case of a child who has attained age sixteen, the services and
2417 programs needed to assist the child to make a transition from foster care to independent living.

2418 C. Upon receipt of the petition filed by the board, public agency, child welfare agency, or any
2419 interested party as provided in subsection B of this section, the court shall schedule a hearing within
2420 sixty days and shall provide notice of the hearing and a copy of the petition to the following, each of
2421 whom shall be a party entitled to participate in the proceeding:

2422 1. The child, if he is twelve years of age or older;

2423 2. The attorney-at-law representing the child as guardian ad litem;

2424 3. The child's parents and, if the child was in the custody of a *guardian, legal custodian or other*
2425 *person* standing in loco parentis at the time the department obtained custody, such person or persons. No
2426 such notification shall be required, however, if the judge certifies on the record that the identity of the
2427 parent or ~~guardian~~ *other such person* is not reasonably ascertainable. An affidavit of the mother that the
2428 identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided
2429 there is no other evidence before the court which would refute such an affidavit;

2430 4. The foster parent or foster parents or other care providers of the child;

2431 5. The petitioning board, public agency or child welfare agency; and

2432 6. Such other persons as the court, in its discretion, may direct.

2433 D. At the conclusion of the hearing, the court shall, upon the proof adduced and in accordance with
2434 the best interests of the child, enter any appropriate order of disposition consistent with the dispositional
2435 alternatives available to the court at the time of the original hearing. The court order shall state whether
2436 reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian, *legal*
2437 *custodian* or other person standing in loco parentis to the child.

2438 E. The court shall possess continuing jurisdiction over cases reviewed under this section for so long
2439 as a child remains in a foster care placement or, when a child is returned to his prior family subject to
2440 conditions imposed by the court, for so long as such conditions are effective. After the hearing required
2441 pursuant to subsection C hereof, the court shall schedule a hearing on the case annually thereafter,
2442 except in the case of a child placed in permanent foster care after a hearing held pursuant to
2443 § 63.1-206.1, or within thirty days upon the petition of any party entitled to notice in proceedings under
2444 this section when the judge determines there is good cause shown for such a hearing.

2445 F. In the case of a child who has not been returned to his prior family or placed in an adoptive
2446 home or placed in permanent foster care within twenty-four months following the initial foster care
2447 placement of the child, the board, public agency or child welfare agency shall file a petition to (i)
2448 transfer the custody of the child to his prior family, (ii) transfer custody of the child to a relative other
2449 than the child's prior family or dissolve the board's or public agency's placement agreement and return
2450 the child to his prior family, (iii) place the child in permanent foster care, (iv) terminate residual
2451 parental rights pursuant to § 16.1-283, (v) continue custody with the board or agency or placement with
2452 the board or public agency through a parental agreement or (vi) transfer custody to the board or child
2453 welfare agency from the parents or guardian of a child who has been in foster care through an
2454 agreement where the parents or guardian retain custody. The board, public agency, or child welfare
2455 agency shall petition for alternatives (v) or (vi) of this subsection only if the board, public agency or
2456 child welfare agency has thoroughly investigated the feasibility of the alternatives listed in (i) through
2457 (iv) of this subsection and determined that none of those alternatives is in the best interest of the child.
2458 A foster care plan shall be included and shall address the board's, public agency's or agency's

investigation of alternatives (i) through (iv) and why they are not in the best interest of the child. Any petition filed pursuant to this subsection shall comply with subdivisions 1 through 7 of subsection B and the procedures set out in subsection C and the continuing jurisdiction provisions of subsection E shall apply.

§ 16.1-300. Confidentiality of Department records.

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating the child pursuant to a contract with the Department;

3. The child's ~~parent~~ *parents*, guardian, legal custodian or other person standing in loco parentis and the child's attorney;

4. Any person who previously has been a ward of the Department and who has reached the age of majority and requests access to his own records or reports;

5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;

6. 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;

7. Any person, agency, organization or institution outside the Department which, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions.

A designated individual treating or responsible for the treatment of a person who was previously a ward of the Department may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of eighteen, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in A hereof, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child, provided that the juvenile and domestic relations district court having jurisdiction over the facility where the child is currently placed shall concur in such determination.

If a parent, guardian, legal custodian or other person standing in loco parentis requests to inspect the reports and records concerning his child and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information about the child's progress as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court having jurisdiction over the facility where the child is currently placed shall have jurisdiction over petitions filed by a parent, guardian, legal custodian or other person standing in loco parentis for review of the Department's decision to withhold reports or records as provided herein.

§ 16.1-300. (Delayed effective date) Confidentiality of Department records.

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating the child pursuant to a contract with the Department;

3. The child's ~~parent~~ *parents*, guardian, legal custodian or other person standing in loco parentis and the child's attorney;

4. Any person who previously has been a ward of the Department and who has reached the age of majority and requests access to his own records or reports;

5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;

2520 6. Any other person, agency or institution, by order of the court, having a legitimate interest in the
2521 case or in the work of the court;

2522 7. Any person, agency, organization or institution outside the Department which, at the Department's
2523 request, is conducting research or evaluation on the work of the Department or any of its divisions.

2524 A designated individual treating or responsible for the treatment of a person who was previously a
2525 ward of the Department may inspect such reports and records as are kept by the Department on such
2526 person or receive copies thereof, when the person who is the subject of the reports and records or his
2527 parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age
2528 of eighteen, provides written authorization to the Department prior to the release of such reports and
2529 records for inspection or copying to the designated individual.

2530 B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or
2531 other person standing in loco parentis that portion of the records referred to in subsection A, when the
2532 staff of the Department determines, in its discretion, that disclosure of such information would be
2533 detrimental to the child.

2534 If a parent, guardian, legal custodian or other person standing in loco parentis requests to inspect the
2535 reports and records concerning his child and if the Department withholds from inspection any portion of
2536 such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual
2537 making the request of the action taken to withhold any information and the reasons for such action; (ii)
2538 provide such individual with as much information about the child's progress as is deemed appropriate
2539 under the circumstances; and (iii) notify the individual in writing at the time of the request of his right
2540 to request judicial review of the Department's decision. The family court having jurisdiction over the
2541 facility where the child is currently placed shall have jurisdiction over petitions filed by a parent,
2542 guardian, legal custodian or other person standing in loco parentis for review of the Department's
2543 decision to withhold reports or records as provided herein.

2544 § 16.1-301. Confidentiality of law-enforcement records.

2545 A. The court shall require all law-enforcement agencies to take special precautions to ensure that
2546 law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized
2547 person. The police departments of the cities of the Commonwealth, and the police departments or
2548 sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other
2549 than violations of motor vehicle laws committed by juveniles. Unless a charge of delinquency is
2550 transferred for criminal prosecution in the circuit court or the court otherwise orders disclosure in the
2551 interests of the juvenile or of national security, such records with respect to such juvenile shall not be
2552 open to public inspection nor their contents disclosed to the public.

2553 B. Inspection of such records shall be permitted only by the following:

2554 1. A court having the juvenile currently before it in any proceeding;

2555 2. The officers of public and nongovernmental institutions or agencies to which the juvenile is
2556 currently committed, and those responsible for his supervision after release;

2557 3. Any other person, agency, or institution, by order of the court, having a legitimate interest in the
2558 case or in the work of the law-enforcement agency;

2559 4. Law-enforcement officers of other jurisdictions, by order of the court, when necessary for the
2560 discharge of their current official duties;

2561 5. The probation and other professional staff of a court in which the juvenile is subsequently
2562 convicted of a criminal offense for the purpose of a presentence report or other dispositional
2563 proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or
2564 by a parole board in considering his parole or discharge or in exercising supervision over him;

2565 6. The juvenile, ~~parent~~ *parent*s, guardian ~~or other~~, *legal custodian or other person standing in loco*
2566 *parentis* and counsel for the juvenile by order of the court; and

2567 7. As provided in §§ 19.2-389.1 and 19.2-390.

2568 C. The police departments of the cities and towns and the police departments or sheriffs of the
2569 counties may release, upon request to one another and to state and federal law-enforcement agencies,
2570 current information on juvenile arrests. The information exchanged shall be used by the receiving
2571 agency for current investigation purposes only and shall not result in the creation of new files or records
2572 on individual juveniles on the part of the receiving agency.

2573 D. Nothing in this section shall prohibit the exchange of other criminal investigative or intelligence
2574 information among law-enforcement agencies.

2575 § 16.1-302. Dockets, indices and order books; when hearings and records private; right to public
2576 hearing; presence of juvenile in court.

2577 A. Every juvenile court shall keep a separate docket of cases arising under this law.

2578 B. Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate
2579 order book or file for cases on appeal from the juvenile court except: (i) cases involving support
2580 pursuant to § 20-61 or subdivisions A 3, F or L of § 16.1-241; (ii) cases involving criminal offenses
2581 committed by adults which are commenced on a warrant or a summons as described in Title 19.2; and

(iii) cases involving civil commitments of adults pursuant to Title 37.1. Such cases shall be docketed on the appropriate docket and the orders in such cases shall be entered in the appropriate order book as used with similar cases commenced in circuit court.

C. The general public shall be excluded from all juvenile court hearings and only such persons admitted as the judge shall deem proper. However, proceedings in cases involving an adult charged with a crime and hearings held on a petition or warrant alleging that a juvenile fourteen years of age or older committed an offense which would be a felony if committed by an adult shall be open. Subject to the provisions of subsection D for good cause shown, the court may, sua sponte or on motion of the accused or the attorney for the Commonwealth close the proceedings. If the proceedings are closed, the court shall state in writing its reasons and the statement shall be made a part of the public record.

D. In any hearing held for the purpose of adjudicating an alleged violation of any criminal law, or law defining a traffic infraction, the juvenile or adult so charged shall have a right to be present and shall have the right to a public hearing unless expressly waived by such person. The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction may waive court appearance and admit to the infraction or infractions charged if he or she and a parent, ~~legal~~ guardian, *legal custodian* 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, *legal custodian* 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 juvenile in court may be waived by the judge at any stage thereof.

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

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

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

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

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

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

The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction may waive court appearance and admit to the infraction or infractions charged if he or she and a parent, ~~legal~~ guardian, *legal custodian* 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, *legal custodian* 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

2643 appears in person at the court or before a magistrate or signs and either mails or delivers to the court or
2644 magistrate a written form of appearance, plea, and waiver, provided that the written plea form containing
2645 the signature of the emancipated juvenile is accompanied by a notarized sworn statement which details
2646 the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding is to
2647 determine the custody of a child of tender years, the presence of such juvenile in court may be waived
2648 by the judge at any stage thereof.

2649 § 16.1-302.1. Right of victim or representative to attend certain proceedings; notice of hearings.

2650 During proceedings involving petitions or warrants alleging that a juvenile is delinquent, including
2651 proceedings on appeal, a victim may remain in the courtroom. In any such case involving a minor
2652 victim, the court may permit an adult chosen by the minor victim to be present in the courtroom during
2653 the proceedings in addition to or in lieu of the minor's parent or, guardian, *legal custodian or other*
2654 *person standing in loco parentis*.

2655 However, if either the attorney for the Commonwealth or any defendant represents to the court that
2656 he intends to call as a material witness a victim or any adult chosen by a minor victim, the court, on
2657 motion, shall exclude that person from the proceedings.

2658 The attorney for the Commonwealth shall give prior notice of any such proceedings and changes in
2659 the scheduling thereof to any known victim and to any known adult chosen in accordance with this
2660 section by a minor victim at the address or telephone number, or both, provided in writing by such
2661 persons.

2662 § 16.1-305. Confidentiality of court records.

2663 A. Social, medical and psychiatric or psychological records, including reports or preliminary
2664 inquiries, predisposition studies and supervision records, of neglected and abused children, children in
2665 need of services, children in need of supervision and delinquent children shall be filed with the other
2666 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and
2667 records of the court and shall be open for inspection only to the following:

2668 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic
2669 relations district courts;

2670 2. Representatives of a public or private agency or department providing supervision or having legal
2671 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

2672 3. The attorney for any party, including the attorney for the Commonwealth;

2673 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
2674 case or in the work of the court; however, for the purposes of preparation of a presentence report upon
2675 a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board,
2676 adult probation and parole officers, including United States Probation and Pretrial Services Officers,
2677 shall have access to an accused's or inmate's records in juvenile court and for the purpose of preparing
2678 the discretionary sentencing guidelines worksheets as directed by the court pursuant to subsection C of
2679 § 19.2-298.01, the attorney for the Commonwealth and the probation officer shall have access to the
2680 defendant's records in juvenile court.

2681 B. All or any part of the records enumerated in subsection A, or information secured from such
2682 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
2683 be made available to the parties to the proceedings and their attorneys.

2684 B1. If a juvenile fourteen years of age or older at the time of the offense is adjudicated delinquent
2685 on the basis of an act which would be a felony if committed by an adult, all court records regarding that
2686 adjudication and any subsequent adjudication of delinquency, other than those records specified in
2687 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that
2688 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile
2689 victim or juvenile witness.

2690 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
2691 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
2692 those persons and agencies designated in subsections A and B of this section.

2693 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
2694 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,
2695 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney
2696 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney
2697 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding
2698 and that such papers will be only used for such evidentiary purpose.

2699 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to
2700 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
2701 award to the victim of a crime, and such information shall not be disseminated or used by the
2702 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

2703 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the
2704 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~~ *parents, guardian, legal custodian or other person standing in loco parentis* of a minor victim, upon request. Additionally, if the victim or ~~parent~~ *parents, guardian, legal custodian or other person standing in loco parentis* submits a written request, the Department of Juvenile Justice shall provide advance notice of such juvenile offender's anticipated date of release from commitment.

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

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

1. The judge, probation officers and professional staff assigned to serve the family courts;
2. Representatives of a public or private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;
3. The attorney for any party, including the attorney for the Commonwealth;
4. Any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court; however, for the purposes of preparation of a presentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, shall have access to an accused's or inmate's records in family court and for the purpose of preparing the discretionary sentencing guidelines worksheets as directed by the court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and the probation officer shall have access to the defendant'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. If a juvenile fourteen years of age or older at the time of the offense is adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, all court records regarding that adjudication and any subsequent adjudication of delinquency, other than those records specified in subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that certain records or portions thereof remain confidential to the extent necessary to protect any juvenile victim or juvenile witness.

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

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

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

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

G. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the disposition in a case involving a juvenile who is committed to state care after being adjudicated for a criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the victim or a ~~parent~~ *parents, guardian, legal custodian or other person standing in loco parentis* of a minor victim, upon request. Additionally, if the victim or ~~parent~~ *parents, guardian, legal custodian or other person standing in loco parentis* submits a written request, the Department of Juvenile Justice shall provide advance notice of such juvenile offender's anticipated date of release from commitment.

§ 16.1-323. Governor to execute; form of compact.

The Governor of Virginia is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall be in form substantially as follows:

The contracting states solemnly agree:

Article I - Findings and Purposes

2766 That juveniles who are not under proper supervision and control, or who have absconded, escaped or
2767 run away, are likely to endanger their own health, morals and welfare, and the health, morals and
2768 welfare of others. The cooperation of the states party to this compact is therefore necessary to provide
2769 for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision
2770 of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent
2771 juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent
2772 juveniles who have run away from home; and (4) additional measures for the protection of juveniles and
2773 of the public, which any two or more of the party states may find desirable to undertake cooperatively.
2774 In carrying out the provisions of this compact the party states shall be guided by the noncriminal,
2775 reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent
2776 juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe
2777 their respective responsibilities for the prompt return and acceptance of juveniles and delinquent
2778 juveniles who become subject to the provisions of this compact. The provisions of this compact shall be
2779 reasonably and liberally construed to accomplish the foregoing purposes.

2780 Article II - Existing Rights and Remedies

2781 That all remedies and procedures provided by this compact be in addition to and not in substitution
2782 for other rights, remedies and procedures, and shall not be in derogation of parental rights and
2783 responsibilities.

2784 Article III - Definitions

2785 That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been
2786 adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to
2787 the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an
2788 agency or institution pursuant to an order of such court; "probation or parole" means any kind of
2789 conditional release of juveniles authorized under the laws of the states party hereto; "court" means any
2790 court having jurisdiction over delinquent, neglected or dependent children; "state" means any state,
2791 territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto
2792 Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is
2793 maintained.

2794 Article IV - Return of Runaways

2795 (a) That the ~~parent~~ parents, guardian, ~~person~~ legal custodian or agency entitled to legal custody of a
2796 juvenile who has not been adjudged delinquent but who has run away without the consent of such
2797 ~~parent~~ parents, guardian, ~~person~~ legal custodian or agency may petition the appropriate court in the
2798 demanding state for the issuance of a requisition for his return. The petition shall state the name and age
2799 of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the
2800 circumstances of his running away, his location if known at the time application is made, and such other
2801 facts as may tend to show that the juvenile who has run away is endangering his own welfare or the
2802 welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be
2803 executed in duplicate, and shall be accompanied by two certified copies of the document or documents
2804 on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters
2805 of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed
2806 proper may be submitted with such petition. The judge of the court to which this application is made
2807 may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is
2808 entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run
2809 away without consent, whether or not he is an emancipated minor, and whether or not it is in the best
2810 interest of the juvenile to compel his return to the state. If the judge determines, either with or without a
2811 hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive
2812 authority of the state where the juvenile is alleged to be located a written requisition for the return of
2813 such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the
2814 court that the juvenile has run away without the consent of a parent, guardian, ~~person~~ legal custodian or
2815 agency entitled to his legal custody, and that it is in the best interest and for the protection of such
2816 juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a
2817 delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs
2818 away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless
2819 of the consent of the parents, guardian, ~~person~~ legal custodian or agency entitled to legal custody,
2820 reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every
2821 case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be
2822 filed with the compact administrator of the demanding state, there to remain on file subject to the
2823 provisions of law governing records of such court. Upon the receipt of a requisition demanding the
2824 return of a juvenile who has run away, the court or the executive authority to whom the requisition is
2825 addressed shall issue an order to any peace officer or other appropriate person directing him to take into
2826 custody and detain such juvenile. Such detention order must substantially recite the facts necessary to
2827 the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to

the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purposes of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, ~~person~~ *legal custodian* or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all the states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, ~~person~~ *legal custodian* or agency entitled to the legal custody of such minor.

Article V - Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued

2889 on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent
2890 juvenile who has either absconded while on probation or parole or escaped from an institution or agency
2891 vested with his legal custody or supervision, there is pending in the state wherein he is detained any
2892 criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in
2893 such state, or if he is suspected of having committed within such state a criminal offense or an act of
2894 juvenile delinquency, he shall not be returned without the consent of such state until discharged from
2895 prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or
2896 juvenile delinquency. The duly accredited officers of any state party to this compact, upon the
2897 establishment of their authority and the identity of the delinquent juvenile being returned, shall be
2898 permitted to transport such delinquent juvenile through any and all states party to this compact, without
2899 interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile
2900 shall be subject to such further proceedings as may be appropriate under the laws of that state.

2901 (b) That the state to which a delinquent juvenile is returned under this Article shall be responsible
2902 for payment of the transportation costs of such return. Article VI - Voluntary Return Procedure

2903 That any delinquent juvenile who has absconded while on probation or parole, or escaped from an
2904 institution or agency vested with his legal custody or supervision in any state party to this compact, and
2905 any juvenile who has run away from any state party to this compact, who is taken into custody without
2906 a requisition in another state party to this compact under the provisions of Article IV (a) or of Article V
2907 (a), may consent to his immediate return to the state from which he absconded, escaped or ran away.
2908 Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem
2909 if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which
2910 states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his
2911 return to the demanding state. Before such consent shall be executed or subscribed, however, the judge,
2912 in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile
2913 of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and
2914 filed with the compact administrator of the state in which the court is located and the judge shall direct
2915 the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited
2916 officer or officers of the state demanding his return, and shall cause to be delivered to such officer or
2917 officers a copy of the consent. The court may, however, upon the request of the state to which the
2918 juvenile or delinquent juvenile is being returned order him to return unaccompanied to such state and
2919 shall provide him with a copy of such court order; in such event a copy of the consent shall be
2920 forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is
2921 ordered to return.

2922 Article VII - Cooperative Supervision of Probationers and Parolees

2923 (a) That the duly constituted judicial and administrative authorities of a state party to this compact
2924 (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation
2925 or parole, to reside in any other state party to this compact (herein called "receiving state") while on
2926 probation or parole, and the receiving state shall accept such delinquent juvenile, if the ~~parent~~ *parents*,
2927 guardian or ~~person entitled to the legal custody~~ *legal custodian* of such delinquent juvenile is residing
2928 or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be
2929 given to the receiving state to make such investigations as it deems necessary. The authorities of the
2930 sending state shall send to the authorities of the receiving state copies of pertinent court orders, social
2931 case studies and all other available information which may be of value to and assist the receiving state
2932 in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree
2933 to accept supervision of a probationer or parolee in cases where the ~~parent~~ *parents*, guardian or ~~person~~
2934 ~~entitled to the legal custody~~ *legal custodian* of the delinquent juvenile is not a resident of the receiving
2935 state, and if so accepted the sending state may transfer supervision accordingly.

2936 (b) That each receiving state will assume the duties of visitation and of supervision over any such
2937 delinquent juvenile and in the exercise of those duties will be governed by the same standards of
2938 visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

2939 (c) That, after consultation between the appropriate authorities of the sending state and of the
2940 receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly
2941 accredited officers of a sending state may enter a receiving state and there apprehend and retake any
2942 such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other
2943 than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and
2944 returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall
2945 be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state
2946 seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the
2947 receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for
2948 any act committed in such state, or if he is suspected of having committed within such state a criminal
2949 offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving
2950 state until discharged from prosecution or other form of proceeding, imprisonment, detention or

supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

Article VIII - Responsibility for Costs

(a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact. Article IX - Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

Article X - Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

Article XI - Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants. Article XII - Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact. Article XIII - Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Article XIV - Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

Article XV - Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to

the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 63.1-204. Acceptance and control over children.

A. A licensed child-welfare agency shall have the right to accept, for any purpose not contrary to the limitations contained in its license, such children as may be entrusted or committed to it by the parents, guardians, relatives guardian, legal custodian or other persons having legal custody thereof person standing in loco parentis, or committed by any court of competent jurisdiction. The agency shall, within the terms of its license and the agreement or order by which such child is entrusted or committed to its care, have custody and control of every child so entrusted or committed and accepted, until he is lawfully discharged, has been adopted, or has attained his majority.

An agency which is licensed as a child-placing agency by the Department of Social Services and certified as a proprietary school for students with disabilities by the Department of Education shall not be required to take custody of any child placed in its special education program but shall enter into a placement agreement with the parents or guardian, or legal custodian of the child concerning the respective responsibilities of the agency and the parents or guardian, or legal custodian for the care and control of the child. Such an agency shall conform with all other legal requirements of licensed child-placing agencies including the provisions of §§ 16.1-281 and 16.1-282.

A licensed private child-placing agency may accept placement of a child through an agreement with a local department of social services where the local department of social services retains legal custody of the child or where the parents or legal a parent, guardian or legal custodian of the child retain legal custody but have entered into a placement agreement with the local department or the public agency designated by the community policy and management team.

Whenever a licensed child-placing agency accepts legal custody of a child, the agency shall comply with §§ 16.1-281 and 16.1-282.

A child-caring institution licensed as a temporary emergency shelter may accept a child for placement provided that verbal agreement for placement is obtained from the parents, guardians, relatives or other persons having legal custody thereof, within eight hours of the child's arrival at the facility and provided that a written placement agreement is completed and signed by the legal guardian and the facility representative within twenty-four hours of the child's arrival or by the end of the next business day after the child's arrival.

B. Whenever a licensed child-welfare agency accepts custody of a child pursuant to a temporary entrustment agreement entered into under the authority of this section, except when the entrustment agreement between the parent or parents and the licensed child-welfare agency provides for the termination of all parental rights and responsibilities with respect to the child, such child-welfare agency, except a child-caring institution when the child is placed there by a parent or parents, shall petition the juvenile and domestic relations district court of the city or county for approval of such agreement within a reasonable time, not to exceed thirty days, after its execution; however, such petition shall not be required when the agreement stipulates in writing that the temporary entrustment shall be for less than ninety days and the child is returned to his home within that period.

C. A child may be placed for adoption by a licensed child-placing agency or a local board of public welfare or social services, in accordance with the provisions of § 63.1-220.2.

For the purposes of this section, a parent who is less than eighteen years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement which provides for the termination of all parental rights and responsibilities, and shall be as fully bound thereby as if such parent had attained the age of eighteen years. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the father of a child born out of wedlock if the identity of the father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered or certified mail to his last known address and such father fails to object to the entrustment within twenty-one days of the mailing of such notice. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the father is reasonably ascertainable. For purposes of determining whether the identity of the father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the mother and the father.

An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when such father has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366, and the child was conceived as the result of such violation.

§ 63.1-204. (Delayed effective date) Acceptance and control over children.

A. A licensed child-welfare agency shall have the right to accept, for any purpose not contrary to the

limitations contained in its license, such children as may be entrusted or committed to it by the parents, guardians, relatives guardian, legal custodian or other persons having legal custody thereof person standing in loco parentis, or committed by any court of competent jurisdiction. The agency shall, within the terms of its license and the agreement or order by which such child is entrusted or committed to its care, have custody and control of every child so entrusted or committed and accepted, until he is lawfully discharged, has been adopted, or has attained his majority.

An agency which is licensed as a child-placing agency by the Department of Social Services and certified as a proprietary school for students with disabilities by the Department of Education shall not be required to take custody of any child placed in its special education program but shall enter into a placement agreement with the parents or guardian or legal custodian of the child concerning the respective responsibilities of the agency and the parents or guardian for the care and control of the child. Such an agency shall conform with all other legal requirements of licensed child-placing agencies including the provisions of §§ 16.1-281 and 16.1-282.

A licensed private child-placing agency may accept placement of a child through an agreement with a local department of social services where the local department of social services retains legal custody of the child or where the parents or legal a parent, guardian or legal custodian of the child retain legal custody but have entered into a placement agreement with the local department or the public agency designated by the community policy and management team.

Whenever a licensed child-placing agency accepts legal custody of a child, the agency shall comply with §§ 16.1-281 and 16.1-282.

A child-caring institution licensed as a temporary emergency shelter may accept a child for placement provided that verbal agreement for placement is obtained from the parents, guardians, relatives or other persons having legal custody thereof, within eight hours of the child's arrival at the facility and provided that a written placement agreement is completed and signed by the legal guardian and the facility representative within twenty-four hours of the child's arrival or by the end of the next business day after the child's arrival.

B. Whenever a licensed child-welfare agency accepts custody of a child pursuant to a temporary entrustment agreement entered into under the authority of this section, except when the entrustment agreement between the parent or parents and the licensed child-welfare agency provides for the termination of all parental rights and responsibilities with respect to the child, such child-welfare agency, except a child-caring institution when the child is placed there by a parent or parents, shall petition the family court of the city or county for approval of such agreement within a reasonable time, not to exceed thirty days, after its execution; however, such petition shall not be required when the agreement stipulates in writing that the temporary entrustment shall be for less than ninety days and the child is returned to his home within that period.

C. A child may be placed for adoption by a licensed child-placing agency or a local board of public welfare or social services, in accordance with the provisions of § 63.1-220.2.

For the purposes of this section, a parent who is less than eighteen years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement which provides for the termination of all parental rights and responsibilities, and shall be as fully bound thereby as if such parent had attained the age of eighteen years. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the father of a child born out of wedlock if the identity of the father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered or certified mail to his last known address and such father fails to object to the entrustment within twenty-one days of the mailing of such notice. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the father is reasonably ascertainable. For purposes of determining whether the identity of the father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the mother and the father.

An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when such father has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366, and the child was conceived as the result of such violation.

§ 63.1-204.1. Visitation of child placed in foster care.

The circuit courts and juvenile and domestic relations district courts shall have the authority to grant visitation rights to the natural parents and grandparents parents, grandparents, guardian, legal custodian or other person standing in loco parentis of any child entrusted or committed to foster care if the court finds (i) that the parent or grandparent parents, grandparents, guardian, legal custodian or other person

3135 *standing in loco parentis* had an on-going relationship with the child prior to his being placed in foster
 3136 care and (ii) it is in the best interests of the child that the relationship continue. The order of the court
 3137 committing the child to foster care shall state the nature and extent of any visitation rights granted as
 3138 provided in this section.

3139 § 63.1-204.1. (Delayed effective date) Visitation of child placed in foster care.

3140 The family courts shall have the authority to grant visitation rights to the ~~natural parents and~~
 3141 ~~grandparents~~ *parents, grandparents, guardian, legal custodian or other person standing in loco parentis*
 3142 of any child entrusted or committed to foster care if the court finds (i) that the ~~parent or grandparent~~
 3143 ~~parents, grandparents, guardian, legal custodian or other person standing in loco parentis~~ had an
 3144 on-going relationship with the child prior to his being placed in foster care and (ii) it is in the best
 3145 interests of the child that the relationship continue. The order of the court committing the child to foster
 3146 care shall state the nature and extent of any visitation rights granted as provided in this section.

3147 § 63.1-204.2. Child support for child placed in foster care by court.

3148 Pursuant to § 16.1-290, ~~responsible persons~~ *parents or other persons legally obligated to pay support*
 3149 shall pay child support for a child placed in foster care from the date that custody was awarded to the
 3150 local department of social services. The court order shall state the names of the ~~responsible parents or~~
 3151 ~~other persons obligated to pay support~~, and either specify the amount of the support obligation pursuant
 3152 to §§ 20-108.1 and 20-108.2 or indicate that the Division of Child Support Enforcement will establish
 3153 the amount of the support obligation. In fixing the amount of support, the court or the Division of Child
 3154 Support Enforcement shall consider the extent to which the payment of support by the responsible
 3155 person may affect the ability of such responsible person to implement a foster care plan developed
 3156 pursuant to § 16.1-281.

3157 § 63.1-210.1. Visitation by parents ~~or guardians, etc.~~ in child day programs.

3158 A custodial parent ~~or~~, guardian, *legal custodian or other person standing in loco parentis* shall be
 3159 admitted to any child day program. For purposes of this section, "child day program" is one in which a
 3160 person or organization has agreed to assume responsibility for the supervision, protection, and well-being
 3161 of a child under the age of thirteen for less than a twenty-four-hour period, regardless of whether it is
 3162 licensed. Such right of admission shall apply only while the child is in the child day program.

3163 § 63.1-219.2. Governor to execute; form of compact.

3164 The Governor of Virginia is hereby authorized and requested to execute, on behalf of the
 3165 Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall
 3166 be in form substantially as follows:

3167 The contracting states solemnly agree that:

3168 ARTICLE I. Purpose and Policy

3169 It is the purpose and policy of the party states to cooperate with each other in the interstate
 3170 placement of children to the end that:

3171 (a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable
 3172 environment and with persons or institutions having appropriate qualifications and facilities to provide a
 3173 necessary and desirable degree and type of care.

3174 (b) The appropriate authorities in a state where a child is to be placed may have full opportunity to
 3175 ascertain the circumstances of the proposed placement, thereby promoting full compliance with
 3176 applicable requirements for the protection of the child.

3177 (c) The proper authorities of the state from which the placement is made may obtain the most
 3178 complete information on the basis of which to evaluate a projected placement before it is made.

3179 (d) Appropriate jurisdictional arrangements for the care of children will be promoted.

3180 ARTICLE II. Definitions

3181 As used in this compact:

3182 (a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or
 3183 similar control.

3184 (b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state,
 3185 or officer or employee thereof; a court of a party state; a person, corporation, association, charitable
 3186 agency or other entity which sends, brings, or causes to be sent or brought any child to another party
 3187 state.

3188 (c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or
 3189 brought, whether by public authorities or private persons or agencies, and whether for placement with
 3190 state or local public authorities or for placement with private agencies or persons.

3191 (d) "Placement" means the arrangement for the care of a child in a family free or boarding home or
 3192 in a child-caring agency or institution but does not include any institution caring for the mentally ill,
 3193 mentally defective or epileptic or any institution primarily educational in character, and any hospital or
 3194 other medical facility.

3195 ARTICLE III. Conditions for Placement

3196 (a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any

child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian or legal custodian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such cases by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have the power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, ~~or~~ his guardian *or legal custodian* and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 63.1-248.6. Local departments to establish child-protective services; duties.

A. Each local department shall establish child-protective services under a departmental coordinator within such department or with one or more adjacent local departments which shall be staffed with qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local department shall be the public agency responsible for receiving and investigating complaints and reports, except that (i) in cases where the reports or complaints are to be made to the juvenile and domestic relations district court and the judge determines that no local department of social services within a reasonable geographic distance can impartially investigate the report, the court shall be responsible for the investigation and (ii) in cases where an employee at a private or state-operated hospital, institution or other facility, or an employee of a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility, or public school, the local department shall request the Department to assist in conducting the investigation in accordance with rules and regulations approved by the State Board.

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation;

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry;

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such removal;

5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual

offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of § 18.2-371, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such reasonable diligence shall be placed in the record;

8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian or *legal custodian* and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect;

9. When abuse or neglect is suspected in any case involving the death of a child, report the case immediately to the regional medical examiner and the local law-enforcement agency;

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

F. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multi-disciplinary teams which shall include where possible, but not be limited to, members of the medical, mental health, social work, nursing, education, legal and law-enforcement professions. Such teams shall assist the local departments in identifying abused and neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.1-753. Multi-disciplinary teams may develop agreements regarding the exchange of information among the parties for the purposes of the investigation and disposition of complaints of child abuse and neglect, delivery of services, and child protection. Any information exchanged in accordance with the agreement shall not be considered to be a violation of the provisions of § 63.1-53 or § 63.1-209.

The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

G. The local department shall report annually on its activities concerning abused and neglected children to the court and to the Child-Protective Services Unit in the Department on forms provided by the Department.

3381 H. Statements, or any evidence derived therefrom, made to local department child-protective services
3382 personnel, or to any person performing the duties of such personnel, by any person accused of the
3383 abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in
3384 the case in chief against such person in the criminal proceeding on the question of guilt or innocence
3385 over the objection of the accused, unless the statement was made after such person was fully advised (i)
3386 of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii)
3387 that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford
3388 an attorney, one will be appointed for him prior to any questioning.

3389 I. Notwithstanding any other provision of law, the local department, in accordance with Board
3390 regulations, shall transmit information regarding founded complaints and may transmit other information
3391 regarding reports, complaints, and investigations involving active duty military personnel or members of
3392 their household to family advocacy representatives of the United States Armed Forces.

3393 § 63.1-248.6. (Delayed effective date) Local departments to establish child-protective services; duties.

3394 A. Each local department shall establish child-protective services under a departmental coordinator
3395 within such department or with one or more adjacent local departments which shall be staffed with
3396 qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local
3397 department shall be the public agency responsible for receiving and investigating complaints and reports,
3398 except that (i) in cases where the reports or complaints are to be made to the family court and the judge
3399 determines that no local department of social services within a reasonable geographic distance can
3400 impartially investigate the report, the court shall be responsible for the investigation and (ii) in cases
3401 where an employee at a private or state-operated hospital, institution or other facility, or an employee of
3402 a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility,
3403 or public school, the local department shall request the Department to assist in conducting the
3404 investigation in accordance with rules and regulations approved by the State Board.

3405 B. The local department shall ensure, through its own personnel or through cooperative arrangements
3406 with other local agencies, that personnel who investigate reports or complaints that an employee of a
3407 private or state-operated hospital, institution or other facility, or an employee of a school board, abused
3408 or neglected a child in such hospital, institution or other facility, or public school, are qualified and
3409 assisted by the Department in accordance with State Board regulations.

3410 C. The local department shall ensure, through its own personnel or through cooperative arrangements
3411 with other local agencies, the capability of receiving reports or complaints and responding to them
3412 promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

3413 D. The local department shall widely publicize a telephone number for receiving complaints and
3414 reports.

3415 E. The local department shall upon receipt of a report or complaint:

3416 1. Make immediate investigation;

3417 2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and
3418 transmit it forthwith to the central registry;

3419 3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be
3420 provided to the child and his family;

3421 4. If removal of the child or his siblings from their home is deemed necessary, petition the court for
3422 such removal;

3423 5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency
3424 and make available to them the records of the local department when abuse or neglect is suspected in
3425 any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or
3426 Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual
3427 offense involving a child, including but not limited to the use or display of the child in sexually explicit
3428 visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1
3429 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in
3430 violation of § 18.2-371, and provide the attorneys for the Commonwealth and the local law-enforcement
3431 agency with records of any complaints of abuse or neglect involving the victim or the alleged
3432 perpetrator. The local department shall not allow reports of the death of the victim from other local
3433 agencies to substitute for a direct report to the attorney for the Commonwealth and the local
3434 law-enforcement agency;

3435 6. Send a follow-up report based on the investigation to the central registry within fourteen days and
3436 at subsequent intervals to be determined by Board regulations;

3437 7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and
3438 transmit a report to such effect to the central registry and to the person who is the subject of the
3439 investigation. However, upon written justification by the local department, such determination may be
3440 extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the
3441 department is unable to find the child who is the subject of the report, the time the child cannot be
3442 found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such

reasonable diligence shall be placed in the record;

8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent ~~or~~, guardian *or legal custodian* and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect;

9. When abuse or neglect is suspected in any case involving the death of a child, report the case immediately to the regional medical examiner and the local law-enforcement agency;

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

F. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multi-disciplinary teams which shall include where possible, but not be limited to, members of the medical, mental health, social work, nursing, education, legal and law-enforcement professions. Such teams shall assist the local departments in identifying abused and neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.1-753. Multi-disciplinary teams may develop agreements regarding the exchange of information among the parties for the purposes of the investigation and disposition of complaints of child abuse and neglect, delivery of services, and child protection. Any information exchanged in accordance with the agreement shall not be considered to be a violation of the provisions of § 63.1-53 or § 63.1-209.

The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

G. The local department shall report annually on its activities concerning abused and neglected children to the court and to the Child-Protective Services Unit in the Department on forms provided by the Department.

H. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case in chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

I. Notwithstanding any other provision of law, the local department, in accordance with Board regulations, shall transmit information regarding founded complaints and may transmit other information regarding reports, complaints, and investigations involving active duty military personnel or members of their household to family advocacy representatives of the United States Armed Forces.

§ 63.1-248.9. Authority to take child into custody.

A. A physician or protective service worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to seventy-two hours without prior approval of parents ~~or guardians~~, guardian, legal custodian, or the

3504 *person standing in loco parentis* provided:

3505 1. The circumstances of the child are such that continuing in his place of residence or in the care or
3506 custody of the parent, guardian, *legal* custodian ~~or~~, other person *standing in loco parentis* or other
3507 person responsible for the child's care, presents an imminent danger to the child's life or health to the
3508 extent that severe or irremediable injury would be likely to result before a hearing can be held; and

3509 2. A court order is not immediately obtainable; and

3510 3. The court has set up procedures for placing such children; and

3511 4. Following taking the child into custody, the parents ~~or guardians~~, *guardian, legal custodian, or*
3512 *other person standing in loco parentis* are notified as soon as practicable that he is in custody; and

3513 5. A report is made to the local department; and

3514 6. The court is notified and the person or agency taking custody of such child obtains, as soon as
3515 possible, but in no event later than seventy-two hours, an emergency removal order pursuant to
3516 § 16.1-251; however, if a preliminary removal order is issued after a hearing held in accordance with
3517 § 16.1-252 within seventy-two hours of the removal of the child, an emergency removal order shall not
3518 be necessary.

3519 B. If the seventy-two-hour period for holding a child in custody and for obtaining a preliminary or
3520 emergency removal order expires on a Saturday, Sunday, or other legal holiday, the seventy-two hours
3521 shall be extended to the next day that is not a Saturday, Sunday, or other legal holiday, but in no event
3522 shall either such period exceed ninety-six hours.