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HOUSE BILL NO. 2546**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee for Courts of Justice
on February 2, 1997)

(Patron Prior to Substitute—Delegate Mims)

A BILL to amend and reenact §§ 16.1-241.2, 16.1-248.1, 16.1-250, 16.1-268, 16.1-277, 16.1-278.1, 16.1-282, 16.1-301, 16.1-302.1, 63.1-204.2, 63.1-204.3, 63.1-210.1, 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, 16.1-275, 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 63.1-204.3 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.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241.2, 16.1-248.1, 16.1-250, 16.1-268, 16.1-277, 16.1-278.1, 16.1-282, 16.1-301, 16.1-302.1, 63.1-204.2, 63.1-210.1, 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, 16.1-275, 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 63.1-204.3 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 be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

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

64 "Child in need of supervision" means:

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

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

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

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

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

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

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

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

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

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

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

121 "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 home as defined in § 63.1-195.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in

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

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191 present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need
192 of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court
193 is essential to provide the treatment, rehabilitation or services needed by the child or his family.

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

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

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

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

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

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

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

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

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

244 "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.

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"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~~ *parent, 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 parent, 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~~, *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:

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

429 offender, or delinquent; except where the jurisdiction of the family court has been terminated or
430 divested;

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

434 2a. Who is at risk of being abused or neglected by a ~~parent or custodian~~ his parent, guardian, legal
435 custodian, or other person standing in loco parentis who has been adjudicated as having abused or
436 neglected another child in the care of the parent ~~or custodian~~, guardian, legal custodian, or other person
437 standing in loco parentis;

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

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

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

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

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

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

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

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

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

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

490 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 pursuant to § 63.1-248.6:1.

BB. Petitions filed in connection with parental placement adoption consent hearings, pursuant to

§ 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

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

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

§ 16.1-241.2. Proceedings against certain parents.

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

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

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

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

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

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

§ 16.1-243. 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 (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

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

d. All other cases: In all other proceedings, be commenced in the city or county where the child 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 (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

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

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

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

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

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

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

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

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

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

697 B. Transfer of venue:

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

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

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

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

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

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

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

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

734 § 16.1-247. Duties of person taking child into custody.

735 A. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such
736 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

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.

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

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

807 1. Return the child to his home;
808 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco
809 parentis;

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

812 4. Release the child.

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

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

822 § 16.1-247. (Delayed effective date) Duties of person taking child into custody.

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

830 B. A person taking a child into custody pursuant to the provisions of subsection B, C or D of
831 § 16.1-246, during such hours as the court is open, shall, with all practicable speed, and in accordance
832 with the provisions of this law and the orders of court pursuant thereto:

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

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

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

845 C. A person taking a child into custody pursuant to the provisions of subsections E and F of
846 § 16.1-246, during such hours as the court is open, shall, with all practicable speed and in accordance
847 with the provisions of this law and the orders of court pursuant thereto:

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

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

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

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

- 860 2. Place the child in a detention home or in shelter care; or
 861 3. Place the child in a jail subject to the provisions of § 16.1-249.
 862 E. A person taking a child into custody pursuant to the provisions of subsection B, C or D of
 863 § 16.1-246 during such hours as the court is not open, shall:
 864 1. Release the child pursuant to the provisions of subdivision B 1 or B 2 of this section; or
 865 2. Release the child on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2;
 866 or
 867 3. Place the child taken into custody pursuant to § 16.1-246 B in shelter care after the issuance of a
 868 detention order pursuant to § 16.1-255; or
 869 4. Place the child taken into custody pursuant to subsection C or D of § 16.1-246 in shelter care or
 870 in a detention home after the issuance of a warrant by a magistrate; or
 871 5. Place the child in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a
 872 magistrate; or
 873 6. In addition to any other provisions of this subsection, detain the child for a reasonably necessary
 874 period of time in order to administer a breath or blood test to determine the alcohol content of his
 875 blood, if such child was taken into custody pursuant to § 18.2-266.
 876 F. A person taking a child into custody pursuant to the provisions of § 16.1-246 E, during such hours
 877 as the court is not open, shall:
 878 1. Release the child to the institution or facility from which he ran away or escaped; or
 879 2. Detain the child in a detention home or in a jail subject to the provisions of § 16.1-249 after the
 880 issuance of a warrant by a magistrate.
 881 G. A person taking a child into custody pursuant to the provisions of § 16.1-246 F, during such
 882 hours as the court is not open, shall:
 883 1. Release the child to the facility or home from which he ran away; or
 884 2. Detain the child in shelter care after the issuance of a detention order pursuant to § 16.1-255 or
 885 after the issuance of a warrant by a magistrate.
 886 H. If a parent, guardian ~~or other~~, *legal custodian or other person standing in loco parentis* fails,
 887 when requested, to bring the child before the court as provided in subdivisions B 2 and E 1 hereof, the
 888 court may issue a detention order directing that the child be taken into custody and be brought before
 889 the court.
 890 I. A law-enforcement officer taking a child into custody pursuant to the provisions of § 16.1-246 G
 891 shall notify the intake officer of the family court of the action taken. The intake officer shall determine
 892 if the child's conduct or situation is within the jurisdiction of the court and if a petition should be filed
 893 on behalf of the child. If the intake officer determines that a petition should not be filed, the
 894 law-enforcement officer shall as soon as practicable:
 895 1. Return the child to his home;
 896 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco
 897 parentis;
 898 3. Place the child in shelter care for a period not longer than twenty-four hours after the issuance of
 899 a detention order pursuant to § 16.1-255; or
 900 4. Release the child.
 901 During the period of detention authorized by this subsection no child shall be confined in any
 902 detention home, jail or other facility for the detention of adults.
 903 J. If a child is taken into custody pursuant to the provisions of subsection B, F or G of § 16.1-246
 904 by a law-enforcement officer during such hours as the court is not in session and the child is not
 905 released or transferred to a facility or institution in accordance with subsection E, G, or I of this section,
 906 the child shall be held in custody only so long as is reasonably necessary to complete identification,
 907 investigation and processing. The child shall be held under visual supervision in a nonlocked,
 908 multipurpose area which is not designated for residential use. The child shall not be handcuffed or
 909 otherwise secured to a stationary object.
 910 § 16.1-248.1. Criteria for detention or shelter care.
 911 A. A juvenile taken into custody whose case is considered by a judge, intake officer or magistrate
 912 pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to
 913 the care, custody and control of such juvenile's parent, guardian, custodian, *person standing in loco*
 914 *parentis* or other suitable person able and willing to provide supervision and care for such juvenile,
 915 either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such
 916 conditions as may be imposed or otherwise. However, a juvenile may be detained in a secure facility,
 917 pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate,
 918 that there is probable cause to believe that the juvenile committed the act alleged, and that at least one
 919 of the following conditions is met:
 920 1. The juvenile is alleged to have committed an act which would be a felony or Class 1

921 misdemeanor if committed by an adult, and there is clear and convincing evidence that:

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

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

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

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

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

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

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

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

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

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

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

953 5. ~~Neither the~~ No juvenile's parent ~~or~~, guardian ~~nor~~ or *legal custodian* or any other person able to
954 provide proper supervision can arrive to assume custody within a reasonable time; or

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

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

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

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

968 § 16.1-250. Procedure for detention hearing.

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

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

983 treated as original signatures. Any two-way electronic video and audio communication system used for
 984 an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

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

989 D. During the detention hearing, the judge shall advise the parties of the right to counsel pursuant to
 990 § 16.1-266. The parties shall be informed of the child's right to remain silent with respect to any
 991 allegation of delinquency and of the contents of the petition. The attorney for the Commonwealth shall
 992 be given the opportunity to be heard.

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

998 1. Place the child in the custody *and supervision* of a parent, guardian, legal custodian ~~or~~, other
 999 person standing in loco parentis ~~under their supervision~~, *other suitable person able and willing to*
 1000 *provide supervision and care*, or under the supervision of an organization or individual agreeing to
 1001 supervise him;

1002 2. Place restrictions on the child's travel, association or place of abode during the period of his
 1003 release;

1004 3. Impose any other condition deemed reasonably necessary and consistent with the criteria for
 1005 detaining children specified in § 16.1-248.1; or

1006 4. Release the child on bail or recognizance in accordance with the provisions of Chapter 9
 1007 (§ 19.2-119 et seq.) of Title 19.2.

1008 F. An order releasing a child on any of the conditions specified in this section may, at any time, be
 1009 amended to impose additional or different conditions of release or to return the child who is alleged to
 1010 be delinquent to custody for failure to conform to the conditions previously imposed.

1011 G. All relevant and material evidence helpful in determining probable cause under this section or the
 1012 need for detention may be admitted by the court even though not competent in a hearing on the petition.

1013 H. If the child is not released and a parent, guardian, legal custodian or other person standing in loco
 1014 parentis is not notified and does not appear or does not waive appearance at the hearing, upon the
 1015 request of such person, the court shall rehear the matter on the next day on which the court sits within
 1016 the county or city wherein the charge against the child is pending. If the court does not sit within the
 1017 county or city on the following day, such hearing shall be held before a judge within a reasonable time,
 1018 not to exceed seventy-two hours, after the request.

1019 I. In considering probable cause under this section, if the court deems it necessary to summon
 1020 witnesses to assist in such determination then the hearing may be continued and the child remain in
 1021 detention, but in no event longer than three consecutive days, exclusive of Saturdays, Sundays, and legal
 1022 holidays.

1023 § 16.1-260. Intake; petition; investigation.

1024 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
 1025 a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of
 1026 the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services
 1027 from the Department of Social Services prior to filing a petition seeking support for a child. Complaints,
 1028 requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
 1029 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
 1030 motion with the clerk, (ii) the Department of Social Services may file support petitions on its own
 1031 motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk
 1032 except petitions alleging that the subject of the petition is a child alleged to be in need of services, in
 1033 need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred
 1034 initially to the local department of public welfare or social services in accordance with the provisions of
 1035 Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1. Motions and other subsequent pleadings in a case shall
 1036 be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed
 1037 shall inquire whether the petitioner is receiving child support services or public assistance. No individual
 1038 who is receiving support services or public assistance shall be denied the right to file a petition or
 1039 motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or
 1040 receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a
 1041 copy of the petition or motion together with notice of the court date to the Division of Child Support
 1042 Enforcement.

1043 B. The appearance of a child before an intake officer may be by (i) personal appearance before the

1044 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
1045 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
1046 communications and proceedings shall be conducted in the same manner as if the appearance were in
1047 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served
1048 or executed by the officer or person to whom sent, and returned in the same manner, and with the same
1049 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
1050 original signatures. Any two-way electronic video and audio communication system used for an
1051 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

1052 1. When the court service unit of any court receives a complaint alleging facts which may be
1053 sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake
1054 officer, may proceed informally to make such adjustment as is practicable without the filing of a petition
1055 or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
1056 establish probable cause for the issuance of the petition.

1057 However, an intake officer may proceed informally on a complaint alleging a child is in need of
1058 services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a
1059 violent juvenile felony and (ii) has not previously been adjudicated in need of supervision or delinquent.
1060 A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A
1061 petition alleging that a juvenile is in need of supervision or delinquent shall be filed with the court if
1062 the juvenile had previously been adjudicated in need of supervision or delinquent.

1063 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child
1064 is in need of services, is in need of supervision or delinquent, the intake officer shall (i) develop a plan
1065 for the juvenile, which may include restitution and the performance of community service, based upon
1066 community resources and the circumstances which resulted in the complaint, (ii) create an official record
1067 of the action taken by the intake officer and file such record in the juvenile's case file and (iii) advise
1068 the juvenile and the juvenile's parent, guardian, *legal custodian* or other person standing in loco parentis,
1069 and the complainant that any subsequent complaint alleging that the child is in need of supervision or
1070 delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to
1071 § 16.1-241 will result in the filing of a petition with the court.

1072 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
1073 visitation or support of a child is the subject of controversy or requires determination, (ii) a person has
1074 deserted, abandoned or failed to provide support for any person in violation of law, or (iii) a child or
1075 such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to
1076 treatment, rehabilitation or other services which are required by law. If any such complainant does not
1077 file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected,
1078 in need of services, in need of supervision or delinquent, if the intake officer believes that probable
1079 cause does not exist, or that the authorization of a petition will not be in the best interest of the family
1080 or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may
1081 refuse to authorize the filing of a petition.

1082 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
1083 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
1084 in need of supervision have utilized or attempted to utilize treatment and services available in the
1085 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
1086 the intake officer determines that the parties have not attempted to utilize available treatment or services
1087 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
1088 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility
1089 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
1090 officer determines that the parties have made a reasonable effort to utilize available community
1091 treatment or services, may he permit the petition to be filed.

1092 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
1093 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
1094 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
1095 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
1096 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake
1097 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate
1098 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the
1099 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake
1100 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a
1101 status offense, or a misdemeanor other than Class 1, his decision is final.

1102 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
1103 intake officer shall accept and file a petition founded upon the warrant.

1104 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
1105 which alleges facts of an offense which would be a felony if committed by an adult.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. In the case of offenses which, if committed by an adult would be punishable as 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 juvenile court of the jurisdiction granted it in § 16.1-241.

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

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a juvenile. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) the Department of Social Services may file support petitions on its own motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. In addition, all cases for divorce, annulment or affirmation of

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

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

E. If the intake officer refuses to authorize a petition relating to an offense which if committed by an

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. In the case of offenses which, if committed by an adult would be punishable as 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 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* ~~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, *or legal custodian* 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, 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, 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 *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 guardian, *legal custodian*, 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, 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

1413 court shall appoint an attorney-at-law to represent him; or

1414 3. Waive the right to representation by an attorney, if the court finds the child and the parent,
1415 guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, to
1416 such waiver and that the interests of the child and the parent, guardian, legal custodian or other person
1417 standing in loco parentis in the proceeding are not adverse. Such written waiver shall be in accordance
1418 with law and shall be filed with the court records of the case.

1419 C. Prior to the hearing by the court of any case involving a parent, guardian or other adult charged
1420 with abuse or neglect of a child or a parent or guardian who could be subjected to the loss of residual
1421 parental rights and responsibilities, such parent, guardian or other adult shall be informed by a judge,
1422 clerk or probation officer of his right to counsel and be given an opportunity to:

1423 1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

1424 2. If the court determines that the parent, guardian or other adult is indigent within the contemplation
1425 of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form
1426 provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or other
1427 adult and the court shall appoint an attorney-at-law to represent him; or

1428 3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

1429 D. In all other cases which in the discretion of the court require counsel or a guardian ad litem to
1430 represent the interests of the child or children or the parent or guardian, *legal custodian*, a discreet and
1431 competent attorney-at-law may be appointed by the court. However, (i) in cases where the custody of a
1432 child or children is the subject of controversy or requires determination and each of the parents or other
1433 persons claiming a right to custody is represented by counsel, the court shall not appoint counsel or a
1434 guardian ad litem to represent the interests of the child or children unless the court finds, at any stage in
1435 the proceedings in a specific case, that the interests of the child or children are not otherwise adequately
1436 represented; and (ii) in suits for divorce, annulment or affirmation of marriage, separate maintenance, or
1437 equitable distribution based on a foreign decree; in petitions for adoption, amendment of a record of
1438 birth, and change of name; or judicial review of school board actions or hearing officer decisions, the
1439 court shall appoint counsel or a guardian ad litem to represent the interests of a party only as provided
1440 in § 8.01-9.

1441 § 16.1-267. Compensation of appointed counsel.

1442 A. When the court appoints counsel to represent a child pursuant to § 16.1-266 A and, after an
1443 investigation by the court services unit, finds that the parents are financially able to pay for the attorney
1444 and refuse to do so, the court shall assess costs against the parent for such legal services in the amount
1445 awarded the attorney by the court under the circumstances of the case, considering such factors as the
1446 ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount
1447 shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision
1448 (1) of § 19.2-163 if the action is in district court.

1449 When the court appoints counsel to represent a child pursuant to § 16.1-266 B and, after an
1450 investigation by the court services unit, finds that the parents are financially able to pay for the attorney
1451 in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the
1452 parents for such legal services in the amount awarded the attorney by the court. Such amount shall not
1453 exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision (1) of
1454 § 19.2-163 if the action is in district court. In determining the financial ability of the parents to pay for
1455 an attorney to represent the child, the court shall utilize the financial statement required by § 19.2-159.

1456 In all other cases, except as provided in § 16.1-343, counsel appointed to represent a child shall be
1457 compensated for his services pursuant to § 19.2-163.

1458 B. When the court appoints counsel to represent a parent, guardian, *legal custodian* or other adult
1459 person standing in loco parentis pursuant to § 16.1-266, such counsel shall be compensated for his
1460 services pursuant to § 19.2-163.

1461 § 16.1-267. (Delayed effective date) Compensation of appointed counsel.

1462 A. When the court appoints counsel to represent a child pursuant to § 16.1-266 A and, after an
1463 investigation by the court services unit, finds that the parents are financially able to pay for the attorney
1464 and refuse to do so, the court shall assess costs against the parent for such legal services in the amount
1465 awarded the attorney by the court under the circumstances of the case, considering such factors as the
1466 ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount
1467 shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision
1468 (1) of § 19.2-163 if the action is in family court.

1469 When the court appoints counsel to represent a child pursuant to § 16.1-266 B and, after an
1470 investigation by the court services unit, finds that the parents are financially able to pay for the attorney
1471 in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the
1472 parents for such legal services in the amount awarded the attorney by the court. Such amount shall not
1473 exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision (1) of
1474 § 19.2-163 if the action is in family 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.

§ 16.1-268. Order of appointment.

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

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

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

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

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

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

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

a. The juvenile's age;

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

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

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

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

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

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

h. The juvenile's school record and education;

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

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

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

B. The 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

1536 or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of
1537 § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious
1538 wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of
1539 § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or
1540 carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of
1541 § 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2, provided the attorney for the
1542 Commonwealth gives written notice of his intent to proceed pursuant to this subsection at least seven
1543 days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such
1544 notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he
1545 may proceed as provided in subsection A.

1546 D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the
1547 juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification
1548 shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges.

1549 If the court does not find probable cause to believe that the juvenile has committed the violent
1550 juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by
1551 dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the
1552 circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney
1553 for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

1554 If the court finds that the juvenile was not fourteen years of age or older at the time of the alleged
1555 commission of the offense or that the conditions specified in subdivision 1, 2, or 3 of subsection A have
1556 not been met, the case shall proceed as otherwise provided for by law.

1557 E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile
1558 court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the
1559 Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

1560 § 16.1-269.1. (Delayed effective date) Trial in circuit court; preliminary hearing, direct indictment;
1561 remand.

1562 A. Except as provided in subsections B and C, if a juvenile fourteen years of age or older at the time
1563 of an alleged offense is charged with an offense which would be a felony if committed by an adult, the
1564 court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold
1565 a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to
1566 the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any
1567 transfer to the appropriate circuit court shall be subject to the following conditions:

1568 1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent,
1569 guardian, legal custodian or other person standing in loco parentis; or attorney;

1570 2. The family court finds that probable cause exists to believe that the juvenile committed the
1571 delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by
1572 an adult;

1573 3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden
1574 is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the
1575 evidence; and

1576 4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to
1577 remain within the jurisdiction of the family court. In determining whether a juvenile is a proper person
1578 to remain within the jurisdiction of the family court, the court shall consider, but not be limited to, the
1579 following factors:

1580 a. The juvenile's age;

1581 b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was
1582 committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense
1583 was against persons or property, with greater weight being given to offenses against persons, especially
1584 if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater
1585 than twenty years confinement if committed by an adult; (iv) whether the alleged offense involved the
1586 use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise
1587 employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

1588 c. Whether the juvenile can be retained in the juvenile justice system long enough for effective
1589 treatment and rehabilitation;

1590 d. The appropriateness and availability of the services and dispositional alternatives in both the
1591 criminal justice and juvenile justice systems for dealing with the juvenile's problems;

1592 e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the
1593 number and nature of previous contacts with family or circuit courts, (ii) the number and nature of prior
1594 periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers,
1595 (iv) the number and nature of previous residential and community-based treatments, (v) whether previous
1596 adjudications and commitments were for delinquent acts that involved the infliction of serious bodily
1597 injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

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

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

h. The juvenile's school record and education;

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

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

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

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

C. The family court shall conduct a preliminary hearing whenever a juvenile fourteen years of age or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of § 18.2-54.1, adulteration of products in violation of § 18.2-54.1, robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of § 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2 provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection 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 family court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall divest the family court of jurisdiction as to the charge and any ancillary charges.

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

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

E. An indictment in the circuit court cures any error or defect in any proceeding held in the family court 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.

§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.

The juvenile court or the circuit court may cause any juvenile within its jurisdiction under the provisions of this law to be physically examined and treated by a physician or to be examined and treated at a local mental health center. If no such appropriate facility is available locally, the court may order the juvenile to be examined and treated by any physician or psychiatrist or examined by a clinical psychologist. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall provide for distribution a list of appropriate mental health centers available throughout the Commonwealth. Upon the written recommendation of the person examining the juvenile that an adequate evaluation of the juvenile's treatment needs can only be performed in an inpatient hospital setting, the court shall have the power to send any such juvenile to a state mental hospital for not more than ten days for the purpose of obtaining a recommendation for the treatment of the juvenile. No juvenile sent to a state mental hospital pursuant to this provision shall be held or cared for in any maximum security unit where adults determined to be criminally insane reside; the juvenile shall be kept separate and apart from such adults. However, the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services may place a juvenile who has been certified to the circuit court for trial as an adult pursuant to § 16.1-269.6 or § 16.1-270 or who has been convicted as an adult of a felony in the circuit court in a unit appropriate for the care and treatment of persons under a criminal charge when, in his discretion, such placement is necessary to protect the security or safety of other patients, staff or the public.

Whenever the parent, *guardian, legal custodian or other person responsible for the care and support* of a juvenile is determined by the court to be financially unable to pay the costs of such examination as ordered by the juvenile court or the circuit court, such costs may be paid according to standards, procedures and rates adopted by the State Board, from funds appropriated in the general appropriation act for the Department.

The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is alleged

1659 to be delinquent or in need of services to be placed in the temporary custody of the Department of
1660 Juvenile Justice for a period of time not to exceed thirty days for diagnostic assessment services after
1661 the adjudicatory hearing and prior to final disposition of his or her case. Prior to such a placement, the
1662 Department shall determine that the personnel, services and space are available in the appropriate
1663 correctional facility for the care, supervision and study of such juvenile and that the juvenile's case is
1664 appropriate for referral for diagnostic services.

1665 Whenever a juvenile concerning whom a petition has been filed appears to be in need of nursing,
1666 medical or surgical care, the juvenile court or the circuit court may order the parent, *guardian, legal*
1667 *custodian or other person responsible for the care and support* of the juvenile to provide such care in a
1668 hospital or otherwise and to pay the expenses thereof. If the parent, *guardian, legal custodian or other*
1669 *person* is unable or fails to provide such care, the juvenile court or the circuit court may refer the matter
1670 to the authority designated in accordance with law for the determination of eligibility for such services
1671 in the county or city in which such juvenile or his parents, *guardian or legal custodian* have residence
1672 or legal domicile.

1673 In any such case, if a parent who is able to do so fails or refuses to comply with the order, the
1674 juvenile court or the circuit court may proceed against him as for contempt or may proceed against him
1675 for nonsupport.

1676 § 16.1-275. (Delayed effective date - See notes) Physical and mental examinations and treatment;
1677 nursing and medical care.

1678 The family court or the circuit court may cause any juvenile within its jurisdiction under the
1679 provisions of this law to be physically examined and treated by a physician or to be examined and
1680 treated at a local mental health center. If no such appropriate facility is available locally, the court may
1681 order the juvenile to be examined and treated by any physician or psychiatrist or examined by a clinical
1682 psychologist. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services
1683 shall provide for distribution a list of appropriate mental health centers available throughout the
1684 Commonwealth. Upon the written recommendation of the person examining the juvenile that an
1685 adequate evaluation of the juvenile's treatment needs can only be performed in an inpatient hospital
1686 setting, the court shall have the power to send any such juvenile to a state mental hospital for not more
1687 than ten days for the purpose of obtaining a recommendation for the treatment of the juvenile. No
1688 juvenile sent to a state mental hospital pursuant to this provision shall be held or cared for in any
1689 maximum security unit where adults determined to be criminally insane reside; the juvenile shall be kept
1690 separate and apart from such adults. However, the Commissioner of the Department of Mental Health,
1691 Mental Retardation and Substance Abuse Services may place a juvenile who has been certified to the
1692 circuit court for trial as an adult pursuant to § 16.1-269.6 or § 16.1-270 or who has been convicted as an
1693 adult of a felony in the circuit court in a unit appropriate for the care and treatment of persons under a
1694 criminal charge when, in his discretion, such placement is necessary to protect the security or safety of
1695 other patients, staff or the public.

1696 Whenever the parent or other person responsible for the care and support of a juvenile is determined
1697 by the court to be financially unable to pay the costs of such examination as ordered by the family court
1698 or the circuit court, such costs may be paid according to standards, procedures and rates adopted by the
1699 State Board, from funds appropriated in the general appropriation act for the Department.

1700 The family court or the circuit court may cause any juvenile within its jurisdiction who is alleged to
1701 be delinquent or in need of services to be placed in the temporary custody of the Department of
1702 Juvenile Justice for a period of time not to exceed thirty days for diagnostic assessment services after
1703 the adjudicatory hearing and prior to final disposition of his or her case. Prior to such a placement, the
1704 Department shall determine that the personnel, services and space are available in the appropriate
1705 correctional facility for the care, supervision and study of such juvenile and that the juvenile's case is
1706 appropriate for referral for diagnostic services.

1707 Whenever a juvenile concerning whom a petition has been filed appears to be in need of nursing,
1708 medical or surgical care, the family court or the circuit court may order the parent or other person
1709 responsible for the care and support of the juvenile to provide such care in a hospital or otherwise and
1710 to pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the
1711 family court or the circuit court may refer the matter to the authority designated in accordance with law
1712 for the determination of eligibility for such services in the county or city in which such juvenile or his
1713 parents have residence or legal domicile.

1714 In any such case, if a parent who is able to do so fails or refuses to comply with the order, the
1715 family court or the circuit court may proceed against him as for contempt or may proceed against him
1716 for nonsupport.

1717 § 16.1-277. Standards for entrustment.

1718 Where a parent, *guardian or other legal custodian* seeks to be relieved of the care and custody of
1719 any child pursuant to subdivision A 4 of § 16.1-241, or where a public or private agency seeks to gain
1720 approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the court shall grant the

requested relief only if it finds that: (i) suitable alternative placements exist for such child, (ii) the child is in need of such alternative placement and (iii) a transfer of legal custody and placement outside the child's present home would not detrimentally affect the child's life, health or development.

§ 16.1-278.1. Definitions.

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

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

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

§ 16.1-278.2. 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~~ *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 juvenile court or the circuit 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, guardian, legal custodian, 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~~ *guardian, legal custodian, other person standing in loco parentis or family or household member* or 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, *guardian*,

1782 *legal custodian, other person standing in loco parentis or other family or household member* to
1783 participate in such services and programs or to refrain from such conduct as the court may prescribe; or

1784 7. Terminate the rights of the parent pursuant to § 16.1-283.

1785 § 16.1-278.2. (Delayed effective date) Abused, neglected, or abandoned children or children without
1786 parental care.

1787 If a child is found to be (i) abused or neglected, (ii) at risk of being abused or neglected by a parent
1788 or ~~eustodian~~ *other person responsible for his care* who has been adjudicated as having abused or
1789 neglected another child in his care, or (iii) abandoned by his parent or other custodian, or without
1790 parental care and guardianship because of his parent's absence or physical or mental incapacity, the
1791 family court may make any of the following orders of disposition to protect the welfare of the child:

1792 1. Enter an order pursuant to the provisions of § 16.1-278;

1793 2. Permit the child to remain with his parent, subject to such conditions and limitations as the court
1794 may order with respect to such child and his parent or ~~other adult occupant of the same dwelling,~~
1795 *guardian, legal custodian, person standing in loco parentis or other family or household member*;

1796 3. Prohibit or limit contact as the court deems appropriate between the child and his parent or ~~other~~
1797 ~~adult occupant of the same dwelling,~~ *guardian, legal custodian, other person standing in loco parentis*
1798 *or family or household member* whose presence tends to endanger the child's life, health or normal
1799 development. The prohibition may exclude any such individual from the home under such conditions as
1800 the court may prescribe for a period to be determined by the court but in no event for longer than 180
1801 days from the date of such determination. A hearing shall be held within 150 days to determine further
1802 disposition of the matter which may include limiting or prohibiting contact for another 180 days;

1803 4. Permit the local board of social services or a public agency designated by the community policy
1804 and management team to place the child, subject to the provisions of § 16.1-281, in suitable family
1805 homes, child caring-institutions, residential facilities, or independent living arrangements with legal
1806 custody remaining with the parents or guardians. The local board or public agency and the parents or
1807 ~~guardians,~~ *guardian or legal custodian* shall enter into an agreement which shall specify the
1808 responsibilities of each for the care and control of the child. The board or public agency which places
1809 the child shall have the final authority to determine the appropriate placement for the child.

1810 Any order allowing a local board or public agency to place a child where legal custody remains with
1811 the parents or guardians as provided in this section shall be entered only upon a finding by the court
1812 that reasonable efforts have been made to prevent placement out of the home and that continued
1813 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1814 5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the
1815 provisions of § 16.1-281, to any of the following:

1816 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
1817 care for the child;

1818 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
1819 by law to receive and provide care for such child; however, a court shall not transfer legal custody of an
1820 abused or neglected child to an agency, organization or facility out of the Commonwealth without the
1821 approval of the Commissioner of Social Services; or

1822 c. The local board of public welfare or social services of the county or city in which the court has
1823 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child
1824 has residence if other than the county or city in which the court has jurisdiction. The local board shall
1825 accept the child for care and custody, provided that it has been given reasonable notice of the pendency
1826 of the case and an opportunity to be heard. However, in an emergency in the county or city in which
1827 the court has jurisdiction, the local board may be required to accept a child for a period not to exceed
1828 fourteen days without prior notice or an opportunity to be heard if the judge entering the placement
1829 order describes the emergency and the need for such temporary placement in the order. Nothing in this
1830 section shall prohibit the commitment of a child to any local board of public welfare or social services
1831 in the Commonwealth when the local board consents to the commitment. The board to which the child
1832 is committed shall have the final authority to determine the appropriate placement for the child.

1833 Any order authorizing removal from the home and transferring legal custody of a child to a local
1834 board of public welfare or social services as provided in this section shall be entered only upon a
1835 finding by the court that reasonable efforts have been made to prevent removal and that continued
1836 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1837 6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent, *guardian,*
1838 *legal custodian, or other family or household member* to participate in such services and programs or to
1839 refrain from such conduct as the court may prescribe; or

1840 7. Terminate the rights of the parent pursuant to § 16.1-283.

1841 § 16.1-278.3. Relief of care and custody; entrustment.

1842 When a parent or ~~other,~~ *guardian or legal custodian* seeks to be relieved of the care and custody of
1843 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

1905 finds that the child is not able to benefit appreciably from further schooling, the court may excuse the
1906 child from further compliance with any legal requirement of compulsory school attendance as provided
1907 under § 22.1-257 or authorize the child, notwithstanding the provisions of any other law, to be employed
1908 in any occupation which is not legally declared hazardous for children under the age of eighteen.

1909 5. Permit the local board of social services or a public agency designated by the community policy
1910 and management team to place the child, subject to the provisions of § 16.1-281, in suitable family
1911 homes, child caring-institutions, residential facilities, or independent living arrangements with legal
1912 custody remaining with the parents or guardians. The local board or public agency and the parents or
1913 guardians shall enter into an agreement which shall specify the responsibilities of each for the care and
1914 control of the child. The board or public agency which places the child shall have the final authority to
1915 determine the appropriate placement for the child.

1916 Any order allowing a local board or public agency to place a child where legal custody remains with
1917 the parents or guardians as provided in this section shall be entered only upon a finding by the court
1918 that reasonable efforts have been made to prevent placement out of the home and that continued
1919 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1920 6. Transfer legal custody to any of the following:

1921 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
1922 care for the child;

1923 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
1924 by law to receive and provide care for such child. The court shall not transfer legal custody of a child in
1925 need of services to an agency, organization or facility out of the Commonwealth without the approval of
1926 the Commissioner of Social Services; or

1927 c. The local board of public welfare or social services of the county or city in which the court has
1928 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child
1929 has residence if other than the county or city in which the court has jurisdiction. The local board shall
1930 accept the child for care and custody, provided that it has been given reasonable notice of the pendency
1931 of the case and an opportunity to be heard. However, in an emergency in the county or city in which
1932 the court has jurisdiction, the local board may be required to accept a child for a period not to exceed
1933 fourteen days without prior notice or an opportunity to be heard if the judge entering the placement
1934 order describes the emergency and the need for such temporary placement in the order. Nothing in this
1935 subdivision shall prohibit the commitment of a child to any local board of public welfare or social
1936 services in the Commonwealth when the local board consents to the commitment. The board to which
1937 the child is committed shall have the final authority to determine the appropriate placement for the
1938 child.

1939 Any order authorizing removal from the home and transferring legal custody of a child to a local
1940 board of public welfare or social services as provided in this subdivision shall be entered only upon a
1941 finding by the court that reasonable efforts have been made to prevent removal and that continued
1942 placement in the home would be contrary to the welfare of the child, and the order shall so state.

1943 7. Require the child to participate in a public service project under such conditions as the court
1944 prescribes.

1945 § 16.1-278.4. (Delayed effective date) Children in need of services.

1946 If a child is found to be in need of services, the family court or the circuit court may make any of
1947 the following orders of disposition for the supervision, care and rehabilitation of the child:

1948 1. Enter an order pursuant to the provisions of § 16.1-278.

1949 2. Permit the child to remain with his parent subject to such conditions and limitations as the court
1950 may order with respect to such child and his parent.

1951 3. Order the parent, *guardian, legal custodian, other person standing in loco parentis or other family*
1952 *or household member* with whom the child is living to participate in such programs, cooperate in such
1953 treatment or be subject to such conditions and limitations as the court may order and as are designed for
1954 the rehabilitation of the child and his parent *or other such person*.

1955 4. In the case of any child fourteen years of age or older, where the court finds that the child is not
1956 able to benefit appreciably from further schooling, the court may excuse the child from further
1957 compliance with any legal requirement of compulsory school attendance as provided under § 22.1-257 or
1958 authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation
1959 which is not legally declared hazardous for children under the age of eighteen.

1960 5. Permit the local board of social services or a public agency designated by the community policy
1961 and management team to place the child, subject to the provisions of § 16.1-281, in suitable family
1962 homes, child caring-institutions, residential facilities, or independent living arrangements with legal
1963 custody remaining with the parents or guardians. The local board or public agency and the ~~parents or~~
1964 ~~guardians~~ parent, guardian or legal custodian shall enter into an agreement which shall specify the
1965 responsibilities of each for the care and control of the child. The board or public agency which places
1966 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.

6. 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 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. The court shall not transfer legal custody of a child in need of services 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 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, *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 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, *guardian, legal custodian, other person standing in loco parentis or other family or household member* to participate in such programs, ~~cooperate in~~ *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. 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.

§ 16.1-278.8. Delinquent juveniles.

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

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

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

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

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

4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a

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

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

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

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

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

2151 pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in
2152 which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a
2153 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge
2154 entering the placement order describes the emergency and the need for such temporary placement in the
2155 order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of
2156 public welfare or social services in the Commonwealth when such local board consents to the
2157 commitment. The board to which the juvenile is committed shall have the final authority to determine
2158 the appropriate placement for the juvenile. Any order authorizing removal from the home and
2159 transferring legal custody of a juvenile to a local board of public welfare or social services as provided
2160 in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been
2161 made to prevent removal and that continued placement in the home would be contrary to the welfare of
2162 the juvenile, and the order shall so state;

2163 14. Commit the juvenile to the Department of Juvenile Justice, but only if he is older than ten years
2164 of age and the current offense is (i) an offense which would be a felony if committed by an adult or (ii)
2165 an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has
2166 previously been found to be delinquent based on an offense which would be either a felony or Class 1
2167 misdemeanor if committed by an adult;

2168 15. Impose the penalty authorized by § 16.1-284;

2169 16. Impose the penalty authorized by § 16.1-284.1;

2170 17. Impose the penalty authorized by § 16.1-285.1; or

2171 18. Impose the penalty authorized by § 16.1-278.9.

2172 § 16.1-278.8. (Delayed effective date) Delinquent juveniles.

2173 If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood
2174 or breath test in violation of § 18.2-268.2 or a similar ordinance, the family court or the circuit court
2175 may make any of the following orders of disposition for his supervision, care and rehabilitation:

2176 1. Enter an order pursuant to the provisions of § 16.1-278;

2177 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
2178 court may order with respect to the juvenile and his parent, *guardian, legal custodian, other person*
2179 *standing in loco parentis or other family or household member;*

2180 3. Order the parent, *guardian, legal custodian, other person standing in loco parentis or other family*
2181 *or household member* of a juvenile living with him to participate in such programs, cooperate in such
2182 treatment or be subject to such conditions and limitations as the court may order and as are designed for
2183 the rehabilitation of the juvenile and his parent, *guardian, legal custodian, other person standing in loco*
2184 *parentis or other family or household member;*

2185 4. Defer disposition for a period of time not to exceed twelve months, after which time the charge
2186 may be dismissed by the judge if the juvenile exhibits good behavior during the period for which
2187 disposition is deferred;

2188 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a
2189 boot camp established pursuant to § 66-13 provided the juvenile (i) is otherwise eligible for commitment
2190 to the Department, (ii) has not previously been and is not currently being adjudicated delinquent or
2191 found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp and (iv) has not
2192 previously been committed to and received by the Department. Upon the juvenile's withdrawal, removal
2193 or refusal to comply with the terms and conditions of participation in the program, he shall be brought
2194 before the court for a hearing at which the court may impose any other disposition as authorized by this
2195 section which could have been imposed at the time the juvenile was placed in the custody of the
2196 Department;

2197 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer
2198 disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile
2199 on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the
2200 terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him.
2201 Discharge and dismissal under these provisions shall be without adjudication of guilt;

2202 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such
2203 programs, cooperate in such treatment or be subject to such conditions and limitations as the court may
2204 order and as are designed for the rehabilitation of the juvenile where the court determines this
2205 participation to be in the best interest of the juvenile and other parties concerned and where the court
2206 determines it reasonable to expect the parent to be able to comply with such order;

2207 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

2208 8. Impose a fine not to exceed \$500 upon such juvenile;

2209 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile
2210 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is
2211 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such
2212 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) 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

2274 guardians where legal custody remains with the parents ~~or~~, guardian, *or legal custodian* or (ii) legal
2275 custody of a child is given to a local board of public welfare or social services or a child welfare
2276 agency, the department of public welfare or social services, the public agency designated or child
2277 welfare agency or the family assessment and planning team established pursuant to § 2.1-753 shall
2278 prepare a foster care plan for such child, as described hereinafter. The individual family service plan
2279 developed by the family assessment and planning team pursuant to § 2.1-754 may be accepted by the
2280 court as the foster care plan if it meets the requirements of this section. The representatives of such
2281 department, agency, or team shall consult with the child's parents, except when parental rights have been
2282 terminated, ~~and any guardian, legal custodian or other person or persons~~ standing in loco parentis at the
2283 time the board or child welfare agency obtained custody or the board or the public agency placed the
2284 child, concerning the matters which should be included in such plan. The department, public agency,
2285 child welfare agency or team shall file the plan with the juvenile and domestic relations district court
2286 within sixty days following the transfer of custody or the board's or public agency's placement of the
2287 child unless the court, for good cause shown, allows an extension of time, which shall not exceed an
2288 additional sixty days. A foster care plan need not be prepared if the child is returned to his prior family
2289 or placed in an adoptive home within sixty days following transfer of custody to the board or agency or
2290 the board's or public agency's placement of the child.

2291 B. The foster care plan shall describe (i) the programs, care, services and other support which will be
2292 offered to the child and his parents and other prior ~~eustodians~~, *guardians, legal custodians*, (ii) the
2293 participation and conduct which will be sought from the child's parents and other prior ~~eustodians~~,
2294 *guardian, legal custodian*, (iii) the visitation and other contacts which will be permitted between the
2295 child and his parents and other prior ~~eustodians~~, *guardian, legal custodian*, (iv) the nature of the
2296 placement or placements which will be provided for the child, and (v) in writing and where appropriate
2297 for children age sixteen or over, the programs and services which will help the child prepare for the
2298 transition from foster care to independent living. The plan shall be designed to lead to the return of the
2299 child to his parents or other prior ~~eustodians~~ *guardian, legal custodian* within the shortest practicable
2300 time which shall be specified in the plan. However, if the department, child welfare agency or team
2301 determines that it is not reasonably likely that the child can be returned to his prior family within a
2302 practicable time, consistent with the best interests of the child, in a separate section of the plan the
2303 department, child welfare agency or team shall (i) include a full description of the reasons for this
2304 conclusion, (ii) determine the opportunities for placing the child with a relative or in an adoptive home,
2305 (iii) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of
2306 custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if
2307 neither of such placements is feasible, (iv) explain why permanent foster care or continued foster care is
2308 the plan for the child. The department or agency may include with such proposed plan a proper pleading
2309 seeking the termination of residual parental rights pursuant to § 16.1-283.

2310 C. A copy of the entire foster care plan shall be sent by the court to the attorney for the child, the
2311 child's parents ~~or any other person standing in loco parentis~~, *guardian, legal custodian or other person*
2312 *standing in loco parentis* at the time the board or child welfare agency obtained custody or the board or
2313 public agency placed the child and such other persons as appear to the court to have a proper interest in
2314 the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the
2315 child have been terminated. A copy of the plan, excluding the section of the plan describing the reasons
2316 why the child cannot be returned home and the alternative chosen, shall be sent by the court to the
2317 foster parents. Any party receiving a copy of the plan may petition the court for a review of the plan.
2318 The judge shall review each petition so filed to determine if there is good cause shown for a hearing on
2319 the plan. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall
2320 be sent by the court to all persons who received a copy of the original of that part of the plan.

2321 D. The court in which the foster care plan is filed shall be notified immediately if the child is
2322 returned to his parents ~~or other persons standing in loco parentis~~, *guardian, legal custodian or other*
2323 *person standing in loco parentis* at the time the board or agency obtained custody or the board or public
2324 agency placed the child.

2325 E. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile
2326 court, upon order of the judge, to review the status of children in the custody of local boards of public
2327 welfare or social services or placed by local boards of social services or the public agency designated by
2328 the community policy and management team on its own motion. The court shall appoint an attorney to
2329 act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan
2330 filed for the child or to review the child's status in foster care.

2331 § 16.1-281. (Delayed effective date) Foster care plan.

2332 A. In any case in which (i) a local board of social services or a public agency designated by the
2333 community policy and management team places a child through an agreement with the parents or
2334 guardians where legal custody remains with the parents ~~or~~, guardian, *legal custodian* or (ii) legal
2335 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 custodians, prior guardian, legal custodian,~~ (ii) the participation and conduct which will be sought from the child's parents ~~and other prior custodians, prior guardian, legal custodian,~~ (iii) the visitation and other contacts which will be permitted between the child and his parents ~~and other prior custodians, prior guardian, legal custodian,~~ (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, prior 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, *guardian or legal custodian* 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~~ 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 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

2397 adoptive home within ten months following the initial foster care placement of the child.

2398 B. Any interested party, including the parent, guardian, *legal custodian* or person who stood in loco
2399 parentis prior to the board's or child welfare agency's assumption of legal custody or the board's or
2400 public agency's placement of the child, may file with the court the petition hereinafter described for each
2401 such child within ten months after the initial foster care placement of the child. However, if a petition is
2402 not filed by such interested party, then the board or child welfare agency having legal custody or the
2403 board or public agency placing the child shall file the petition within ten months after the initial foster
2404 care placement.

2405 The petition shall:

2406 1. Be filed in the court in which the foster care plan was filed for the child. Upon the order of such
2407 court, however, the petition may be filed in the court of the county or city in which the board or child
2408 welfare agency having legal custody or having placed the child has its principal office or where the
2409 child resides;

2410 2. Include a copy of the foster care plan previously filed for such child;

2411 3. State, if such is reasonably obtainable, the current address of the child's parents and, if the child
2412 was in the custody of a *guardian, legal custodian or other person* ~~or persons~~ standing in loco parentis at
2413 the time the board or child welfare agency obtained legal custody or the board or public agency placed
2414 the child, of such person or persons;

2415 4. Describe the placement or placements provided for the child while in foster care and the services
2416 or programs offered to the child and his parents and, if applicable, ~~the persons previously~~ *the prior*
2417 *guardian, legal custodian or other person* standing in loco parentis;

2418 5. Describe the nature and frequency of the contacts between the child and his parents and, if
2419 applicable, ~~the persons previously~~ *the prior guardian, legal custodian or other person* standing in loco
2420 parentis;

2421 6. Set forth in detail the manner in which the foster care plan previously filed with the court was or
2422 was not complied with and the extent to which the goals thereof have been met; and

2423 7. Set forth the disposition sought and the grounds therefor; however, if a continuation of foster care
2424 is recommended, a foster care plan for such period of continued foster care shall also be included and
2425 shall address (i) the role the current foster parents or other care providers will play in the future
2426 planning for the child and (ii) in the case of a child who has attained age sixteen, the services and
2427 programs needed to assist the child to make a transition from foster care to independent living.

2428 C. Upon receipt of the petition filed by the board, public agency, child welfare agency, or any
2429 interested party as provided in subsection B of this section, the court shall schedule a hearing within
2430 sixty days and shall provide notice of the hearing and a copy of the petition to the following, each of
2431 whom shall be a party entitled to participate in the proceeding:

2432 1. The child, if he is twelve years of age or older;

2433 2. The attorney-at-law representing the child as guardian ad litem;

2434 3. The child's parents and, if the child was in the custody of a *guardian, legal custodian or other*
2435 *person* standing in loco parentis at the time the department obtained custody, such person or persons. No
2436 such notification shall be required, however, if the judge certifies on the record that the identity of the
2437 parent or ~~guardian~~ *other such person* is not reasonably ascertainable. An affidavit of the mother that the
2438 identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided
2439 there is no other evidence before the court which would refute such an affidavit;

2440 4. The foster parent or foster parents or other care providers of the child;

2441 5. The petitioning board, public agency or child welfare agency; and

2442 6. Such other persons as the court, in its discretion, may direct.

2443 D. At the conclusion of the hearing, the court shall, upon the proof adduced and in accordance with
2444 the best interests of the child, enter any appropriate order of disposition consistent with the dispositional
2445 alternatives available to the court at the time of the original hearing. The court order shall state whether
2446 reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian, *legal*
2447 *custodian* or other person standing in loco parentis to the child.

2448 E. The court shall possess continuing jurisdiction over cases reviewed under this section for so long
2449 as a child remains in a foster care placement or, when a child is returned to his prior family subject to
2450 conditions imposed by the court, for so long as such conditions are effective. After the hearing required
2451 pursuant to subsection C hereof, the court shall schedule a hearing on the case annually thereafter,
2452 except in the case of a child placed in permanent foster care after a hearing held pursuant to
2453 § 63.1-206.1, or within thirty days upon the petition of any party entitled to notice in proceedings under
2454 this section when the judge determines there is good cause shown for such a hearing.

2455 F. In the case of a child who has not been returned to his prior family or placed in an adoptive
2456 home or placed in permanent foster care within twenty-four months following the initial foster care
2457 placement of the child, the board, public agency or child welfare agency shall file a petition to (i)
2458 transfer the custody of the child to his prior family, (ii) transfer custody of the child to a relative other

than the child's prior family or dissolve the board's or public agency's placement agreement and return the child to his prior family, (iii) place the child in permanent foster care, (iv) terminate residual parental rights pursuant to § 16.1-283, (v) continue custody with the board or agency or placement with the board or public agency through a parental agreement or (vi) transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retain custody. The board, public agency, or child welfare agency shall petition for alternatives (v) or (vi) of this subsection only if the board, public agency or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in (i) through (iv) of this subsection and determined that none of those alternatives is in the best interest of the child. 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, 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

2520 having the child currently before it in any proceeding;

2521 2. Any public agency, child welfare agency, private organization, facility or person who is treating
2522 the child pursuant to a contract with the Department;

2523 3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the
2524 child's attorney;

2525 4. Any person who previously has been a ward of the Department and who has reached the age of
2526 majority and requests access to his own records or reports;

2527 5. Any state agency providing funds to the Department of Juvenile Justice and required by the
2528 federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which
2529 are financed in whole or in part by federal funds;

2530 6. Any other person, agency or institution, by order of the court, having a legitimate interest in the
2531 case or in the work of the court;

2532 7. Any person, agency, organization or institution outside the Department which, at the Department's
2533 request, is conducting research or evaluation on the work of the Department or any of its divisions.

2534 A designated individual treating or responsible for the treatment of a person who was previously a
2535 ward of the Department may inspect such reports and records as are kept by the Department on such
2536 person or receive copies thereof, when the person who is the subject of the reports and records or his
2537 parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age
2538 of eighteen, provides written authorization to the Department prior to the release of such reports and
2539 records for inspection or copying to the designated individual.

2540 B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or
2541 other person standing in loco parentis that portion of the records referred to in subsection A, when the
2542 staff of the Department determines, in its discretion, that disclosure of such information would be
2543 detrimental to the child.

2544 If a parent, guardian, legal custodian or other person standing in loco parentis requests to inspect the
2545 reports and records concerning his child and if the Department withholds from inspection any portion of
2546 such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual
2547 making the request of the action taken to withhold any information and the reasons for such action; (ii)
2548 provide such individual with as much information about the child's progress as is deemed appropriate
2549 under the circumstances; and (iii) notify the individual in writing at the time of the request of his right
2550 to request judicial review of the Department's decision. The family court having jurisdiction over the
2551 facility where the child is currently placed shall have jurisdiction over petitions filed by a parent,
2552 guardian, legal custodian or other person standing in loco parentis for review of the Department's
2553 decision to withhold reports or records as provided herein.

2554 § 16.1-301. Confidentiality of law-enforcement records.

2555 A. The court shall require all law-enforcement agencies to take special precautions to ensure that
2556 law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized
2557 person. The police departments of the cities of the Commonwealth, and the police departments or
2558 sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other
2559 than violations of motor vehicle laws committed by juveniles. Unless a charge of delinquency is
2560 transferred for criminal prosecution in the circuit court or the court otherwise orders disclosure in the
2561 interests of the juvenile or of national security, such records with respect to such juvenile shall not be
2562 open to public inspection nor their contents disclosed to the public.

2563 B. Inspection of such records shall be permitted only by the following:

2564 1. A court having the juvenile currently before it in any proceeding;

2565 2. The officers of public and nongovernmental institutions or agencies to which the juvenile is
2566 currently committed, and those responsible for his supervision after release;

2567 3. Any other person, agency, or institution, by order of the court, having a legitimate interest in the
2568 case or in the work of the law-enforcement agency;

2569 4. Law-enforcement officers of other jurisdictions, by order of the court, when necessary for the
2570 discharge of their current official duties;

2571 5. The probation and other professional staff of a court in which the juvenile is subsequently
2572 convicted of a criminal offense for the purpose of a presentence report or other dispositional
2573 proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or
2574 by a parole board in considering his parole or discharge or in exercising supervision over him;

2575 6. The juvenile, parent, guardian ~~or other~~, legal custodian and counsel for the juvenile by order of
2576 the court; and

2577 7. As provided in §§ 19.2-389.1 and 19.2-390.

2578 C. The police departments of the cities and towns and the police departments or sheriffs of the
2579 counties may release, upon request to one another and to state and federal law-enforcement agencies,
2580 current information on juvenile arrests. The information exchanged shall be used by the receiving
2581 agency for current investigation purposes only and shall not result in the creation of new files or records

on individual juveniles on the part of the receiving agency.

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

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

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

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.

2643 E. In all other cases, the public shall be excluded and only such persons admitted as the court deems
2644 proper.

2645 The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has
2646 been charged with a traffic infraction may waive court appearance and admit to the infraction or
2647 infractions charged if he or she and a parent, ~~legal~~ guardian, *legal custodian* or person standing in loco
2648 parentis to the juvenile appear in person at the court or before a magistrate or sign and either mail or
2649 deliver to the court or magistrate a written form of appearance, plea and waiver, provided that the
2650 written form contains the notarized signature of the parent, ~~legal~~ guardian, *legal custodian* or person
2651 standing in loco parentis to the juvenile. An emancipated juvenile charged with a traffic infraction shall
2652 have the opportunity to waive court appearance and admit to the infraction or infractions if he or she
2653 appears in person at the court or before a magistrate or signs and either mails or delivers to the court or
2654 magistrate a written form of appearance, plea, and waiver, provided that the written plea form containing
2655 the signature of the emancipated juvenile is accompanied by a notarized sworn statement which details
2656 the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding is to
2657 determine the custody of a child of tender years, the presence of such juvenile in court may be waived
2658 by the judge at any stage thereof.

2659 § 16.1-302.1. Right of victim or representative to attend certain proceedings; notice of hearings.

2660 During proceedings involving petitions or warrants alleging that a juvenile is delinquent, including
2661 proceedings on appeal, a victim may remain in the courtroom. In any such case involving a minor
2662 victim, the court may permit an adult chosen by the minor victim to be present in the courtroom during
2663 the proceedings in addition to or in lieu of the minor's parent ~~or~~ , guardian, *legal custodian or other*
2664 *person standing in loco parentis*.

2665 However, if either the attorney for the Commonwealth or any defendant represents to the court that
2666 he intends to call as a material witness a victim or any adult chosen by a minor victim, the court, on
2667 motion, shall exclude that person from the proceedings.

2668 The attorney for the Commonwealth shall give prior notice of any such proceedings and changes in
2669 the scheduling thereof to any known victim and to any known adult chosen in accordance with this
2670 section by a minor victim at the address or telephone number, or both, provided in writing by such
2671 persons.

2672 § 16.1-305. Confidentiality of court records.

2673 A. Social, medical and psychiatric or psychological records, including reports or preliminary
2674 inquiries, predisposition studies and supervision records, of neglected and abused children, children in
2675 need of services, children in need of supervision and delinquent children shall be filed with the other
2676 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and
2677 records of the court and shall be open for inspection only to the following:

2678 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic
2679 relations district courts;

2680 2. Representatives of a public or private agency or department providing supervision or having legal
2681 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

2682 3. The attorney for any party, including the attorney for the Commonwealth;

2683 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
2684 case or in the work of the court; however, for the purposes of preparation of a presentence report upon
2685 a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board,
2686 adult probation and parole officers, including United States Probation and Pretrial Services Officers,
2687 shall have access to an accused's or inmate's records in juvenile court and for the purpose of preparing
2688 the discretionary sentencing guidelines worksheets as directed by the court pursuant to subsection C of
2689 § 19.2-298.01, the attorney for the Commonwealth and the probation officer shall have access to the
2690 defendant's records in juvenile court.

2691 B. All or any part of the records enumerated in subsection A, or information secured from such
2692 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
2693 be made available to the parties to the proceedings and their attorneys.

2694 B1. If a juvenile fourteen years of age or older at the time of the offense is adjudicated delinquent
2695 on the basis of an act which would be a felony if committed by an adult, all court records regarding that
2696 adjudication and any subsequent adjudication of delinquency, other than those records specified in
2697 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that
2698 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile
2699 victim or juvenile witness.

2700 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
2701 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
2702 those persons and agencies designated in subsections A and B of this section.

2703 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
2704 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,

which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding and that such papers will be only used for such evidentiary purpose.

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

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

2766 victim or a parent, *guardian, legal custodian or other person standing in loco parentis* of a minor
2767 victim, upon request. Additionally, if the victim or parent, *guardian, legal custodian or other person*
2768 *standing in loco parentis* submits a written request, the Department of Juvenile Justice shall provide
2769 advance notice of such juvenile offender's anticipated date of release from commitment.

2770 § 63.1-204. Acceptance and control over children.

2771 A. A licensed child-welfare agency shall have the right to accept, for any purpose not contrary to the
2772 limitations contained in its license, such children as may be entrusted or committed to it by the parents,
2773 ~~guardians, relatives or other persons having legal custody thereof~~ *guardians, legal custodian or other*
2774 *person* or committed by any court of competent jurisdiction. The agency shall, within the terms of its
2775 license and the agreement or order by which such child is entrusted or committed to its care, have
2776 custody and control of every child so entrusted or committed and accepted, until he is lawfully
2777 discharged, has been adopted, or has attained his majority.

2778 An agency which is licensed as a child-placing agency by the Department of Social Services and
2779 certified as a proprietary school for students with disabilities by the Department of Education shall not
2780 be required to take custody of any child placed in its special education program but shall enter into a
2781 placement agreement with the parents ~~or~~, *guardian, or legal custodian* of the child concerning the
2782 respective responsibilities of the agency and the parents ~~or~~, *guardian, or legal custodian* for the care and
2783 control of the child. Such an agency shall conform with all other legal requirements of licensed
2784 child-placing agencies including the provisions of §§ 16.1-281 and 16.1-282.

2785 A licensed private child-placing agency may accept placement of a child through an agreement with
2786 a local department of social services where the local department of social services retains legal custody
2787 of the child or where the parents ~~or legal a parent~~, *guardian or legal custodian* of the child retain legal
2788 custody but have entered into a placement agreement with the local department or the public agency
2789 designated by the community policy and management team.

2790 Whenever a licensed child-placing agency accepts legal custody of a child, the agency shall comply
2791 with §§ 16.1-281 and 16.1-282.

2792 A child-caring institution licensed as a temporary emergency shelter may accept a child for
2793 placement provided that verbal agreement for placement is obtained from the parents, guardians,
2794 relatives or other persons having legal custody thereof, within eight hours of the child's arrival at the
2795 facility and provided that a written placement agreement is completed and signed by the legal guardian
2796 and the facility representative within twenty-four hours of the child's arrival or by the end of the next
2797 business day after the child's arrival.

2798 B. Whenever a licensed child-welfare agency accepts custody of a child pursuant to a temporary
2799 entrustment agreement entered into under the authority of this section, except when the entrustment
2800 agreement between the parent or parents and the licensed child-welfare agency provides for the
2801 termination of all parental rights and responsibilities with respect to the child, such child-welfare agency,
2802 except a child-caring institution when the child is placed there by a parent or parents, shall petition the
2803 juvenile and domestic relations district court of the city or county for approval of such agreement within
2804 a reasonable time, not to exceed thirty days, after its execution; however, such petition shall not be
2805 required when the agreement stipulates in writing that the temporary entrustment shall be for less than
2806 ninety days and the child is returned to his home within that period.

2807 C. A child may be placed for adoption by a licensed child-placing agency or a local board of public
2808 welfare or social services, in accordance with the provisions of § 63.1-220.2.

2809 For the purposes of this section, a parent who is less than eighteen years of age shall be deemed
2810 fully competent and shall have legal capacity to execute a valid entrustment agreement, including an
2811 agreement which provides for the termination of all parental rights and responsibilities, and shall be as
2812 fully bound thereby as if such parent had attained the age of eighteen years. An entrustment agreement
2813 for the termination of all parental rights and responsibilities with respect to the child shall be valid
2814 notwithstanding that it is not signed by the father of a child born out of wedlock if the identity of the
2815 father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered
2816 or certified mail to his last known address and such father fails to object to the entrustment within
2817 twenty-one days of the mailing of such notice. An affidavit of the mother that the identity of the father
2818 is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other
2819 evidence which would refute such an affidavit. The absence of such an affidavit shall not be deemed
2820 evidence that the identity of the father is reasonably ascertainable. For purposes of determining whether
2821 the identity of the father is reasonably ascertainable, the standard of what is reasonable under the
2822 circumstances shall control, taking into account the relative interests of the child, the mother and the
2823 father.

2824 An entrustment agreement for the termination of all parental rights and responsibilities with respect
2825 to the child shall be valid notwithstanding that it is not signed by the birth father of a child when such
2826 father has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366, and
2827 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, 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

2889 *or other person standing in loco parentis* of any child entrusted or committed to foster care if the court
2890 finds (i) that the ~~parent or grandparent~~ *parents, grandparents, guardian, legal custodian or other person*
2891 *standing in loco parentis* had an on-going relationship with the child prior to his being placed in foster
2892 care and (ii) it is in the best interests of the child that the relationship continue. The order of the court
2893 committing the child to foster care shall state the nature and extent of any visitation rights granted as
2894 provided in this section.

2895 § 63.1-204.1. (Delayed effective date) Visitation of child placed in foster care.

2896 The family courts shall have the authority to grant visitation rights to the ~~natural parents and~~
2897 ~~grandparents~~ *parents, grandparents, guardian, legal custodian or other person standing in loco parentis*
2898 of any child entrusted or committed to foster care if the court finds (i) that the ~~parent or grandparent~~
2899 *parents, grandparents, guardian, legal custodian or other person standing in loco parentis* had an
2900 on-going relationship with the child prior to his being placed in foster care and (ii) it is in the best
2901 interests of the child that the relationship continue. The order of the court committing the child to foster
2902 care shall state the nature and extent of any visitation rights granted as provided in this section.

2903 § 63.1-204.2. Child support for child placed in foster care by court.

2904 Pursuant to § 16.1-290, ~~responsible persons~~ *parents or other persons legally obligated to pay support*
2905 shall pay child support for a child placed in foster care from the date that custody was awarded to the
2906 local department of social services. The court order shall state the names of the ~~responsible parents or~~
2907 *other persons* obligated to pay support, and either specify the amount of the support obligation pursuant
2908 to §§ 20-108.1 and 20-108.2 or indicate that the Division of Child Support Enforcement will establish
2909 the amount of the support obligation. In fixing the amount of support, the court or the Division of Child
2910 Support Enforcement shall consider the extent to which the payment of support by the responsible
2911 person may affect the ability of such responsible person to implement a foster care plan developed
2912 pursuant to § 16.1-281.

2913 § 63.1-210.1. Visitation by parents ~~or guardians, etc.~~ in child day programs.

2914 A custodial parent ~~or~~, guardian, *legal custodian or other person standing in loco parentis* shall be
2915 admitted to any child day program. For purposes of this section, "child day program" is one in which a
2916 person or organization has agreed to assume responsibility for the supervision, protection, and well-being
2917 of a child under the age of thirteen for less than a twenty-four-hour period, regardless of whether it is
2918 licensed. Such right of admission shall apply only while the child is in the child day program.

2919 § 63.1-204.3. Child support for child placed in foster care where legal custody remains with parent or
2920 guardian.

2921 Responsible persons shall pay child support for a child placed in foster care through an agreement
2922 where legal custody remains with the parent ~~or~~, guardian, *or legal custodian* pursuant to subdivision 4
2923 of § 16.1-278.2, from the date that the child was placed in foster care. The agreement between the
2924 parents, *guardian or legal custodian* and the local board of social services or public agency shall include
2925 provisions for the payment of child support. In fixing the amount of support, the court or the Division
2926 of Child Support Enforcement shall consider the extent to which the payment of support by the
2927 responsible person may affect the ability of such responsible person to implement a foster care plan
2928 developed pursuant to § 16.1-281.

2929 § 63.1-248.9. Authority to take child into custody.

2930 A. A physician or protective service worker of a local department or law-enforcement official
2931 investigating a report or complaint of abuse and neglect may take a child into custody for up to
2932 seventy-two hours without prior approval of parents ~~or guardians, guardian, legal custodian, or the~~
2933 *person standing in loco parentis* provided:

2934 1. The circumstances of the child are such that continuing in his place of residence or in the care or
2935 custody of the parent, guardian, *legal custodian or*, other person *standing in loco parentis or other*
2936 *person* responsible for the child's care, presents an imminent danger to the child's life or health to the
2937 extent that severe or irremediable injury would be likely to result before a hearing can be held; and

2938 2. A court order is not immediately obtainable; and

2939 3. The court has set up procedures for placing such children; and

2940 4. Following taking the child into custody, the parents ~~or guardians, guardian, legal custodian, or~~
2941 *other person standing in loco parentis* are notified as soon as practicable that he is in custody; and

2942 5. A report is made to the local department; and

2943 6. The court is notified and the person or agency taking custody of such child obtains, as soon as
2944 possible, but in no event later than seventy-two hours, an emergency removal order pursuant to
2945 § 16.1-251; however, if a preliminary removal order is issued after a hearing held in accordance with
2946 § 16.1-252 within seventy-two hours of the removal of the child, an emergency removal order shall not
2947 be necessary.

2948 B. If the seventy-two-hour period for holding a child in custody and for obtaining a preliminary or
2949 emergency removal order expires on a Saturday, Sunday, or other legal holiday, the seventy-two hours
2950 shall be extended to the next day that is not a Saturday, Sunday, or other legal holiday, but in no event

2951 shall either such period exceed ninety-six hours.