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HOUSE BILL NO. 889

Offered January 22, 1996

A BILL to amend and reenact §§ 16.1-241, 16.1-278.5 and 16.1-278.8 of the Code of Virginia, as they are currently effective and as they may become effective, relating to juvenile and family courts; jurisdiction; family and household members; penalty.

Patrons—Mims, Almand, Baker, Cantor, Cunningham, Fisher, Forbes, Jackson, McDonnell, Reynolds and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 16.1-278.5 and 16.1-278.8 of the Code of Virginia, as they are currently effective and as they may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 16.1-241. Jurisdiction.

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

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

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

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

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

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

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

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

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

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,

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60 legal custodian or other person standing in loco parentis and is in the custody of the court when such
61 consent is required by law.

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

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

70 F. Any parent, guardian, legal custodian, *family or household member, of a child or parent of the*
71 *child, as defined in § 16.1-228*, or other person standing in loco parentis of a child:

72 1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

108 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
109 § 16.1-279.1.

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

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

114 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
115 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
116 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the
117 juvenile and domestic relations district court.

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

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

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

121 T. Petitions to enforce any request for information or subpoena that is not complied with or to

review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.1-248.6:1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

183 F. Any parent, guardian, legal custodian, *family or household member, of a child or of a parent of*
184 *the child, as defined in § 16.1-228* or other person standing in loco parentis of a child:

185 1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

218 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
219 § 16.1-279.1.

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

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

224 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
225 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
226 by a family court upon the filing of a certified copy of such order in the family court.

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

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

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

230 T. Suits for separate maintenance.

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

232 V. Petitions for adoption.

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

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

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

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

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

242 BB. Petitions filed in connection with parental placement adoption consent hearings, pursuant to
243 § 63.1-220.3. Such proceedings shall be advanced on the docket so as to be heard by the court within
244 ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest

possible disposition.

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

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

§ 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;

3. Order the child and/or his parent, *guardian, legal custodian, family or household member, of the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* 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, *guardian, legal custodian, family or household member, of the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* 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~~ *any such person* 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~~ *such person* 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, *guardian, legal custodian, family or household member, of the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* 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 legal custodian, 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;

3. Order the child and/or his parent, *guardian, legal custodian, family or household member, of the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* 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;

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

308 5. a. In the case of any child subject to compulsory school attendance as provided in § 22.1-254,
309 where the court finds that the child's parent, *guardian, legal custodian, family or household member, of*
310 *the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* is in
311 violation of §§ 22.1-254, 22.1-255, 22.1-265, or § 22.1-267, in addition to any penalties provided in
312 § 22.1-263 or § 22.1-265, the court may order ~~the parent~~ *any such person* with whom the child is living
313 to participate in such programs, cooperate in such treatment, or be subject to such conditions and
314 limitations as the court may order and as are designed for the rehabilitation of the child and/or the
315 parent. Upon the failure of the parent to so participate or cooperate, or to comply with the conditions
316 and limitations that the court orders, the court may impose a fine of not more than \$100 for each day in
317 which the person fails to comply with the court order.

318 b. If the court finds that the parent, *guardian, legal custodian, family or household member, of the*
319 *child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* has willfully
320 disobeyed a lawful process, judgment, decree, or court order requiring such person to comply with the
321 compulsory school attendance law, in addition to any conditions or limitations that the court may order
322 or any penalties provided by §§ 16.1-278.2 through 16.1-278.19, § 22.1-263 or § 22.1-265, the court may
323 impose the penalty authorized by § 18.2-371.

324 C. Any order entered pursuant to this section shall be provided in writing to the child, his parent or
325 legal custodian, and to the child's attorney and shall contain adequate notice of the provisions of
326 § 16.1-292 regarding willful violation of such order.

327 § 16.1-278.8. Delinquent juveniles.

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

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

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

334 3. Order the parent, *guardian, legal custodian, family or household member, of the child or of the*
335 *parent, as defined in § 16.1-228, or other person standing in loco parentis* of a juvenile living with him
336 to participate in such programs, cooperate in such treatment or be subject to such conditions and
337 limitations as the court may order and as are designed for the rehabilitation of the juvenile and ~~his~~
338 ~~parent~~ *such person* ;

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

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

347 6. Order the parent, *guardian, legal custodian, family or household member, of the child or of the*
348 *parent, as defined in § 16.1-228, or other person standing in loco parentis* of a juvenile with whom the
349 juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to
350 such conditions and limitations as the court may order and as are designed for the rehabilitation of the
351 juvenile where the court determines this participation to be in the best interest of the juvenile and other
352 parties concerned and where the court determines it reasonable to expect ~~the parent~~ *such person* to be
353 able to comply with such order;

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

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

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

365 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the
366 physical custody of the court during any period of curfew restriction. The court shall send an abstract of
367 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall

preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

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

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

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

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

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

13. Transfer legal custody to any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

3. Order the parent, *guardian, legal custodian, family or household member, of the child or of the parent, as defined in § 16.1-228, or other person standing in loco parentis* 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

429 ~~parent such person~~ ;

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

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

438 6. Order the parent, *guardian, legal custodian, family or household member, of the child or of the*
439 *parent, as defined in § 16.1-228, or other person standing in loco parentis* of a juvenile with whom the
440 juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to
441 such conditions and limitations as the court may order and as are designed for the rehabilitation of the
442 juvenile where the court determines this participation to be in the best interest of the juvenile and other
443 parties concerned and where the court determines it reasonable to expect ~~the parent such person~~ to be
444 able to comply with such order;

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

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

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

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

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

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

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

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

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

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

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

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

484 c. The local board of public welfare or social services of the county or city in which the court has
485 jurisdiction or, at the discretion of the court, to the local board of the county or city in which the
486 juvenile has residence if other than the county or city in which the court has jurisdiction. The board
487 shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the
488 pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in
489 which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a
490 period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge

entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

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

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

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

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

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