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SENATE BILL NO. 945

Offered January 18, 1999

A *BILL to amend and reenact § 16.1-246 of the Code of Virginia, relating to when and how child may be taken into custody.*

Patrons—Edwards, Lucas, Maxwell, Reynolds and Ticer

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-246 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-246. When and how child may be taken into immediate custody.

No child may be taken into immediate custody except:

A. With a detention order issued by the judge, the intake officer or the clerk, when authorized by the judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant issued by a magistrate; or

B. When a child is alleged to be in need of services or supervision and (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to ensure the child's appearance before the court; or

C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or

C1. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of § 18.2-103, (ii) assault and battery or (iii) carrying a weapon on school property in violation of § 18.2-308.1 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense; or

D. When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or

E. When a law-enforcement officer has probable cause to believe that a person committed to the Department of Juvenile Justice as a child has run away or that a child has escaped from a jail or detention home; or

F. When a law-enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of public welfare or social services or a licensed child welfare agency; or

G. When a law-enforcement officer has probable cause to believe that a child (i) has run away from home or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or

H. When a child is believed to be in need of inpatient treatment for mental illness as provided in § 16.1-340-; or

I. *When necessary to compel the attendance of a child in any court pursuant to a lawful subpoena issued pursuant to § 8.01-407 for such child's appearance and served upon such child pursuant to § 8.01-296 or § 8.01-298, after the court enters an order finding that the attendance of such child is necessary to protect the constitutional rights of an accused under the Sixth Amendment to the United States Constitution and under Article I, § 8 of the Constitution of Virginia.*

INTRODUCED

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