

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 18

An Act to amend and reenact § 16.1-302 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-305.01, relating to access to child and spousal support case files.

[H 613]

Approved February 26, 2018

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-302 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-305.01 as follows:

§ 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~~ *subdivision A 3, or subsection 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 37.2. 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. *In any child or spousal support case appealed to the circuit court, the case files shall be open for inspection only as provided by § 16.1-305.01.*

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, or person standing in loco parentis to the juvenile appear in person at the court or before a magistrate or sign and either mail or deliver to the court or magistrate a written form of appearance, plea and waiver, provided that the written form contains the notarized signature of the parent, legal guardian, or person standing in loco parentis to the juvenile. An emancipated juvenile charged with a traffic infraction shall have the opportunity to waive court appearance and admit to the infraction or infractions if he or she appears in person at the court or before a magistrate or signs and either mails or delivers to the court or magistrate a written form of appearance, plea, and waiver, provided that the written plea form containing the signature of the emancipated juvenile is accompanied by a notarized sworn statement which details the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding is to determine the custody of a child of tender years, the presence of such juvenile in court may be waived by the judge at any stage thereof.

§ 16.1-305.01. Access to child and spousal support case files.

All child support and spousal support case files, whether physical or digital, shall be open for inspection only to the following:

1. The judge, court officials, and clerk or deputy clerk assigned to serve the court in which the case is pending or to which the case is transferred pursuant to court order;

2. Any party to the case;

3. Any attorney of record to the case; and

4. The Department of Social Services and the Division of Child Support Enforcement.

Any other person, agency, or institution having a legitimate interest in such case files or the work of the court, by order of the court, may inspect the case files.