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## HOUSE BILL NO. 2044

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 16.1-267, 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.10, 16.1-284, 16.1-284.1, 16.1-286, 16.1-290, 16.1-290.1, 16.1-292, 16.1-293.1, 16.1-298, 16.1-309.1, 16.1-330.1, 18.2-371.2, 19.2-349, 46.2-383, 46.2-808.2, and 63.2-100 of the Code of Virginia, relating to fines and costs assessed against juveniles in criminal and traffic cases; report.*

Patron—Shin

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 16.1-267, 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.10, 16.1-284, 16.1-284.1, 16.1-286, 16.1-290, 16.1-290.1, 16.1-292, 16.1-293.1, 16.1-298, 16.1-309.1, 16.1-330.1, 18.2-371.2, 19.2-349, 46.2-383, 46.2-808.2, and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

**§ 16.1-267. Compensation of appointed counsel.**

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

When the court appoints counsel to represent a child pursuant to subsection B or C of § 16.1-266 and, after an investigation by the court services unit and pursuant to subsection B of § 16.1-278.8, finds that the parents are financially able to pay for the attorney in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the parents for such legal services in the amount awarded the attorney by the court. Such amount shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision 1 of § 19.2-163 if the action is in district court. In determining the financial ability of the parents to pay for an attorney to represent the child, the court shall utilize the financial statement required by § 19.2-159.

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

B. When the court appoints counsel to represent a parent, guardian or other adult pursuant to § 16.1-266, such counsel shall be compensated for his services pursuant to § 19.2-163.

C. 1. In any proceeding in which the court appoints a guardian ad litem to represent a child pursuant to § 16.1-266, the court shall order the parent, or other party with a legitimate interest who has filed a petition in such proceeding, to reimburse the Commonwealth the costs of such services in an amount not to exceed the amount awarded the guardian ad litem by the court. If the court determines that such party is unable to pay, the required reimbursement may be reduced or eliminated. No party whom the court determines to be indigent pursuant to § 19.2-159 shall be required to pay reimbursement except where the court finds good cause to do so. The Executive Secretary of the Supreme Court shall administer the guardian ad litem program and shall report August 1 and January 1 of each year to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations on the amounts paid for guardian ad litem purposes, amounts reimbursed, savings achieved, and management actions taken to further enhance savings under this program.

2. For good cause shown, or upon the failure by the guardian ad litem to substantially comply with the standards adopted for attorneys appointed as guardians ad litem pursuant to § 16.1-266.1, the court may adjust the cost sought by the guardian ad litem of such services.

3. For the purposes of this subsection, "other party with a legitimate interest" shall not include child welfare agencies or local departments of social services.

**§ 16.1-272. Power of circuit court over juvenile offender.**

A. In any case in which a juvenile is indicted, the offense for which he is indicted and all ancillary charges shall be tried in the same manner as provided for in the trial of adults, except as otherwise provided with regard to sentencing. Upon a finding of guilty of any charge, the court shall fix the sentence without the intervention of a jury. Nothing in this subsection shall be construed to require a court to review the results of an investigation completed pursuant to § 16.1-273.

INTRODUCED

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1. If a juvenile is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the court may order that (i) the juvenile serve a portion of the sentence as a serious juvenile offender under § 16.1-285.1 and the remainder of such sentence in the same manner as provided for adults; (ii) the juvenile serve the entire sentence in the same manner as provided for adults; or (iii) the portion of the sentence to be served in the same manner as provided for adults be suspended conditioned upon successful completion of such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case including, but not limited to, commitment under subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1.

2. If the juvenile is convicted of any other felony, the court may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this chapter for the hearing and disposition of cases in the juvenile court, including, but not limited to, commitment under § 16.1-285.1 or may in its discretion impose an adult sentence and suspend the sentence conditioned upon successful completion of such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case.

3. Notwithstanding any other provision of law, if the juvenile is convicted of any felony, the court may in its discretion depart from any mandatory minimum sentence required by law or suspend any portion of an otherwise applicable sentence.

4. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court shall deal with the juvenile in the manner prescribed by law for the disposition of a delinquency case in the juvenile court.

B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile court and places the juvenile on probation, the juvenile may be supervised by a juvenile probation officer.

C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

D. In any case in which a juvenile is not sentenced as a juvenile under this chapter, the court shall, in addition to considering any other factor and prior to imposing a sentence, consider (i) the juvenile's exposure to adverse childhood experiences, early childhood trauma, or any child welfare agency and (ii) the differences between juvenile and adult offenders.

E. A juvenile sentenced pursuant to clause (i) of subdivision A 1 shall be eligible to earn sentence credits in the manner prescribed by § 53.1-202.2 for the portion of the sentence served as a serious juvenile offender under § 16.1-285.1.

F. If the court sentences the juvenile as a juvenile under this chapter, the clerk shall provide a copy of the court's final order or judgment to the court service unit in the same locality as the juvenile court to which the case had been transferred.

**§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.**

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may, and for the purposes of subdivision A 44 13 or 47 16 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant

physical, psychological, or economic injury as a result of the violation of law.

**§ 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 Behavioral Health and Developmental 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 10 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 Behavioral Health and Developmental 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 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 procedures and rates adopted by the Department 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 found to be delinquent for an offense that is eligible for commitment pursuant to subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice for a period of time not to exceed 30 days for diagnostic assessment services after the adjudicatory hearing and prior to final disposition of his or her case. Prior to such a placement, the Department shall determine that the personnel, services and space are available in the appropriate correctional facility for the care, supervision and study of such juvenile and that the juvenile's case is appropriate for referral for diagnostic services.

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

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

**§ 16.1-278.7. Commitment to Department of Juvenile Justice.**

Only a juvenile who is (i) adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-269.1 and is 11 years of age or older or (ii) 14 years of age or older may be committed to the Department of Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to subdivision A 44 13 or A 47 16 of § 16.1-278.8, at the time a court commits a child to the Department of Juvenile Justice the court shall order an investigation pursuant to § 16.1-273 to be completed within 15 days. No juvenile court or circuit court shall order the commitment of any child jointly to the Department of Juvenile Justice and to a local board of social services or transfer the custody of a child jointly to a court service unit of a juvenile court and to a local board of social services. Any person sentenced and committed to an active term of incarceration in the Department of Corrections who is, at the time of such sentencing, in the custody of the Department of Juvenile Justice, upon pronouncement of sentence, shall be immediately transferred to the Department of Corrections.

**§ 16.1-278.8. Delinquent juveniles.**

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a 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;
3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such

182 treatment or be subject to such conditions and limitations as the court may order and as are designed for  
183 the rehabilitation of the juvenile and his parent;

184 4. Defer disposition for a specific period of time established by the court with due regard for the  
185 gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the  
186 judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

187 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer  
188 disposition of the delinquency charge for a specific period of time established by the court with due  
189 regard for the gravity of the offense and the juvenile's history, and place the juvenile on probation under  
190 such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions,  
191 the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal  
192 under these provisions shall be without adjudication of guilt;

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

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

199 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or  
200 drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the  
201 treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse  
202 screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the  
203 commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs  
204 and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not  
205 previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such  
206 facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of  
207 participation in the program, he shall be brought before the court for a hearing at which the court may  
208 impose any other disposition authorized by this section. The court shall review such placements at  
209 30-day intervals;

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

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

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

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

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

234 ~~10.~~ 9. Require the juvenile to make restitution or reparation to the aggrieved party or parties for  
235 actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

236 ~~11.~~ 10. Require the juvenile to participate in a public service project under such conditions as the  
237 court prescribes;

238 ~~12.~~ 11. In case of traffic violations, impose only those penalties that are authorized to be imposed on  
239 adults for such violations. ~~However, for~~ For those violations punishable by confinement if committed by  
240 an adult, confinement shall be imposed only as authorized by this title. *However, notwithstanding any  
241 other provision of law, a court may determine the appropriate amount, if any, of fines and fees imposed  
242 against a child for a traffic infraction or other traffic offense;*

243 ~~13.~~ 12. 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 that 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 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 14 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 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. Nothing herein shall limit the authority of the court to review the child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan through a petition filed pursuant to subsection A of § 16.1-282. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of 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. 13. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-269.1 or (ii) he is 14 years of age or older and the current offense is (a) an offense that would be a felony if committed by an adult, (b) an offense that 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 that would be a felony if committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or scheme;

~~15. 14. Impose the penalty authorized by § 16.1-284;~~

~~16. 15. Impose the penalty authorized by § 16.1-284.1;~~

~~17. 16. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;~~

~~18. 17. Impose the penalty authorized by § 16.1-278.9; or~~

~~19. 18. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.~~

*B. Additionally, after entering a judgment of guilt or delinquency but prior to the imposition of any penalty, the court shall determine the applicable fees and costs including attorney fees, pursuant to § 16.1-267 or other criteria as appropriate, to be assessed against the juvenile's parents. While determine if such juvenile's parents are financially able to pay the fees and costs in whole or in part and refuse to do so, the court shall give the child, or the child's attorney, and the parents, an opportunity to be heard. If the juvenile has successfully met the conditions required by either subdivision A 4 or A 5 of § 16.1-278.8, no costs or fees shall be imposed. Notwithstanding any other provision, if such parents are the victim of the offense, a court shall not assess attorney fees against such parents.*

C. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project

305 under such conditions as the court prescribes.

306 **§ 16.1-278.10. Traffic infractions.**

307 In cases involving a child who is charged with a traffic infraction *or other traffic offense*, the court  
308 may impose only those penalties ~~which~~ *that* are authorized to be imposed on adults for such infractions.

309 *Notwithstanding any other provision of law, a court may determine the appropriate amount, if any,*  
310 *of fines and fees imposed against a child for a traffic infraction or other traffic offense.*

311 **§ 16.1-284. When adult sentenced for juvenile offense.**

312 A. When the juvenile court sentences an adult who has committed, before attaining the age of 18, an  
313 offense that would be a crime if committed by an adult, the court may impose, for each offense, the  
314 penalties that are authorized to be imposed on adults for such violations, not to exceed the punishment  
315 for a Class 1 misdemeanor, provided that the total jail sentence imposed shall not exceed 36 continuous  
316 months and the total fine shall not exceed \$2,500 or the court may order a disposition as provided in  
317 subdivision A 4, 5, 7, ~~11, 12, 14, or 17~~ 10, 11, 13, or 16 and subsection B C of § 16.1-278.8.

318 B. A person sentenced pursuant to this section shall earn good time credit at the rate of one day for  
319 each one day served, including all days served while confined in jail or secured detention prior to  
320 conviction and sentencing, in which the person has not violated the written rules and regulations of the  
321 jail.

322 **§ 16.1-284.1. Placement in secure local facility.**

323 A. If a juvenile 14 years of age or older is found to have committed an offense which if committed  
324 by an adult would be punishable by confinement in a state or local correctional facility as defined in  
325 § 53.1-1, and the court determines (i) that the juvenile has not previously been and is not currently  
326 adjudicated delinquent of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that  
327 the juvenile has not been released from the custody of the Department within the previous 18 months,  
328 (iii) that the interests of the juvenile and the community require that the juvenile be placed under legal  
329 restraint or discipline, and (iv) that other placements authorized by this title will not serve the best  
330 interests of the juvenile, then the court may order the juvenile confined in a detention home or other  
331 secure facility for juveniles for a period not to exceed six months from the date the order is entered, for  
332 a single offense or multiple offenses. However, if the single offense or multiple offenses, which if  
333 committed by an adult would be punishable as a felony or a Class 1 misdemeanor, caused the death of  
334 any person, then the court may order the juvenile confined in a detention home or other secure facility  
335 for juveniles for a period not to exceed 12 months from the date the order is entered.

336 The period of confinement ordered may exceed 30 calendar days if the juvenile has had an  
337 assessment completed by the secure facility to which he is ordered concerning the appropriateness of the  
338 placement.

339 B. If the period of confinement in a detention home or other secure facility for juveniles is to exceed  
340 30 calendar days, and the juvenile is eligible for commitment pursuant to subdivision A ~~14~~ 13 of  
341 § 16.1-278.8, then the court shall order the juvenile committed to the Department, but suspend such  
342 commitment. In suspending the commitment to the Department as provided for in this subsection, the  
343 court shall specify conditions for the juvenile's satisfactory completion of one or more community or  
344 facility based treatment programs as may be appropriate for the juvenile's rehabilitation.

345 C. During any period of confinement which exceeds 30 calendar days ordered pursuant to this  
346 section, the court shall conduct a mandatory review hearing at least once during each 30 days and at  
347 such other times upon the request of the juvenile's probation officer, for good cause shown. If it appears  
348 at such hearing that the purpose of the order of confinement has been achieved, the juvenile shall be  
349 released on probation for such period and under such conditions as the court may specify and remain  
350 subject to the order suspending commitment to the State Department of Juvenile Justice. If the juvenile's  
351 commitment to the Department has been suspended as provided in subsection B of this section, and if  
352 the court determines at the first or any subsequent review hearing that the juvenile is consistently failing  
353 to comply with the conditions specified by the court or the policies and program requirements of the  
354 facility, then the court shall order that the juvenile be committed to the State Department of Juvenile  
355 Justice. If the court determines at the first or any subsequent review hearing that the juvenile is not  
356 actively involved in any community facility based treatment program through no fault of his own, then  
357 the court shall order that the juvenile be released under such conditions as the court may specify subject  
358 to the suspended commitment.

359 C1. The appearance of the juvenile before the court for a hearing pursuant to subsection C may be  
360 by (i) personal appearance before the judge or (ii) use of two-way electronic video and audio  
361 communication. If two-way electronic video and audio communication is used, a judge may exercise all  
362 powers conferred by law and all communications and proceedings shall be conducted in the same  
363 manner as if the appearance were in person, and any documents filed may be transmitted by facsimile  
364 process. A facsimile may be served or executed by the officer or person to whom sent, and returned in  
365 the same manner, and with the same force, effect, authority, and liability as an original document. All  
366 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.

D. A juvenile may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements. Standards for these facilities shall require juveniles placed pursuant to this section for a period which exceeds 30 calendar days be provided separate services for their rehabilitation, consistent with the intent of this section.

E. The Department of Juvenile Justice shall assist the localities or combinations thereof in implementing this section consistent with the statewide plan required by § 16.1-309.4 and pursuant to standards promulgated by the State Board, in order to ensure the availability and reasonable access of each court to the facilities the use of which is authorized by this section.

**§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.**

A. When the court determines that the behavior of a child within its jurisdiction is such that it cannot be dealt with in the child's own locality or with the resources of his locality, the judge shall refer the child to the locality's family assessment and planning team for assessment and a recommendation for services. Based on this recommendation, the court may take custody and place the child, pursuant to the provisions of subdivision 5 of § 16.1-278.4 or subdivision A 43 12 b of § 16.1-278.8, in a private or locally operated public facility, or nonresidential program with funding in accordance with the Children's Services Act (§ 2.2-5200 et seq.). No child shall be placed outside the Commonwealth by a court without first complying with the appropriate provisions of Chapter 11 (§ 63.2-1100 et seq.) of Title 63.2 or with regulations of the State Board of Social Services relating to resident children placed out of the Commonwealth.

The Board shall establish a per diem allowance to cover the cost of such placements. This allowance may be drawn from funds allocated through the state pool of funds to the community policy and management team of the locality where the child resides as such residence is determined by the court.

B. The court service unit of the locality which made the placement shall be responsible for monitoring and supervising all children placed pursuant to this section. The court shall receive and review, at least semiannually, recommendations concerning the continued care of each child in such placements.

**§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents or (ii) a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and 20-108.2, or the Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, shall order the parents to pay support to the Department of Social Services. If the parents fail or refuse to pay such support, the court may proceed against them for contempt, or the order may be filed and shall have the effect of a civil judgment. The provisions of this subsection shall not apply to a juvenile who is committed to the Department pursuant to subdivision A 44 13 or A 47 16 of § 16.1-278.8.

B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance so long as there may be funds for that purpose.

C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and 63.2-1910.

**§ 16.1-290.1. Payment for court-ordered counseling, treatment, or programs.**

The court shall order the participant in any treatment, counseling, or other program for the rehabilitation of a minor child or his family to pay as much of the applicable fee for participation as such person is able to pay. *The ordering of such payment shall be in accordance with subsection B of § 16.1-278.8.*

A finding of guilt shall not be required for the court so to order payment.

**§ 16.1-292. Violation of court order by any person.**

A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of § 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the order of the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with, (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its power to punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for contempt after notice and an opportunity for a hearing on the contempt except that confinement in the case of a juvenile shall be in a secure facility for juveniles rather than in jail and shall not exceed a period of seven days for each offense. However, if the person violating the order was a juvenile at the time of the original act and is 18 years of age or older when the court enters a disposition for violation

of the order, the judge may order confinement in jail. If a juvenile is found to have violated a court order as a status offender, any order of disposition of such violation confining the juvenile in a secure facility for juveniles shall (a) identify the valid court order that has been violated; (b) specify the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order; (c) state the findings of fact that support a determination that there is no appropriate less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile; (d) specify the length of time of such confinement, not to exceed seven days; and (e) include a plan for the juvenile's release from such facility. Such order of confinement shall not be renewed or extended.

B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and sentence such party to confinement in a jail, workhouse, city farm, or work squad as provided in §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no event, however, shall such sentence be imposed for a period of more than 12 months. The sum or sums as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance of the spouse or the child or children for whose benefit such order or decree provided.

C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may take with respect to a child violating the terms and conditions of an order to those which the court could have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through 16.1-278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive the court of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456 subject to the provisions of subsection A or (ii) punish a child for contempt for violation of a dispositional order in a delinquency proceeding after notice and an opportunity for a hearing regarding such contempt, including acts of disobedience of the court's dispositional order which are committed outside the presence of the court.

D. In the event a child in need of services is found to have willfully and materially violated for a second or subsequent time the order of the court pursuant to § 16.1-278.4, the dispositional alternatives specified in subdivision A 9 8 of § 16.1-278.8 shall be available to the court.

E. In the event that a child in need of supervision is found to have willfully and materially violated an order of the court pursuant to § 16.1-278.5, the court may enter any of the following orders of disposition:

1. Suspend the child's motor vehicle driver's license;

2. Order any such child 14 years of age or older to be (i) placed in a foster home, group home, or other nonsecure residential facility or, (ii) if the court finds that such placement is not likely to meet the child's needs, that all other treatment options in the community have been exhausted, and that secure placement is necessary in order to meet the child's service needs, detained in a secure facility for a period of time not to exceed seven consecutive days for violation of any order of the court arising out of the same petition. The court shall state in its order for detention the basis for all findings required by this section. In addition, any order of disposition for such violation confining the child in a secure facility for juveniles shall (a) identify the valid court order that has been violated; (b) specify the factual basis for determining that there is reasonable cause to believe that the child has violated such order; (c) state the findings of fact that support a determination that there is no appropriate less restrictive alternative available to placing the child in such a facility, with due consideration to the best interest of the child; (d) specify the length of time of such confinement, not to exceed seven days; and (e) include a plan for the child's release from such facility. Such order of confinement shall not be renewed or extended. When any child is detained in a secure facility pursuant to this section, the court shall direct the agency evaluating the child pursuant to § 16.1-278.5 to reconvene the interdisciplinary team participating in such evaluation as promptly as possible to review its evaluation, develop further treatment plans as may be appropriate and submit its report to the court for its determination as to further treatment efforts either during or following the period the child is in secure detention. A juvenile may only be detained pursuant to this section in a detention home or other secure facility in compliance with standards established by the State Board. Any order issued pursuant to this subsection is a final order and is appealable to the circuit court as provided by law.

F. Nothing in this section shall be construed to reclassify a child in need of services or in need of supervision as a delinquent.

#### **§ 16.1-293.1. Mental health services transition plan.**

A. The Board of Juvenile Justice, after consultation with the Department of Behavioral Health and Developmental Services, shall promulgate regulations for the planning and provision of post-release services for persons committed to the Department of Juvenile Justice pursuant to subdivision A 4 13 of § 16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of § 16.1-284.1 and identified as having a recognized mental health, substance abuse, or other therapeutic treatment need. The plan shall be in writing and completed prior to the person's release. The purpose of the plan



shall be to ensure continuity of necessary treatment and services.

B. The mental health services transition plan shall identify the mental health, substance abuse, or other therapeutic needs of the person being released. Appropriate treatment providers and other persons from state and local agencies or entities, as defined by the Board, shall participate in the development of the plan. Appropriate family members, caregivers, or other persons, as defined by the Board, shall be invited to participate in the development of the person's plan.

C. Prior to the person's release from incarceration, the identified agency or agencies responsible for the case management of the mental health services transition plan shall make the necessary referrals specified in the plan and assist the person in applying for insurance and other services identified in the plan, including completing and submitting applications that may only be submitted upon release.

**§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a judge or justice thereof.

B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the pendency of an appeal or writ of error:

1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision A 8, 9, ~~10~~, ~~12~~, ~~11~~, ~~13~~, or ~~14~~, ~~or~~ ~~15~~ of § 16.1-278.8.

2. In cases involving a child and any local ordinance.

3. In cases involving any person over the age of 18 years.

Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order disposing of a motion to reconsider relating to participation in continuing programs pursuant to § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1, including a protective order required by § 16.1-253.2, or a protective order entered in conjunction with a disposition pursuant to § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, 16.1-278.8, or 16.1-278.14, (iv) a protective order issued pursuant to § 19.2-152.10, including a protective order required by § 18.2-60.4, or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment, order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

**§ 16.1-309.1. Exception as to confidentiality.**

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2, or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged

with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

b. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the information as provided in this subdivision.

C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public interest requires, make the juvenile's name and address available to the public.

D. Upon the request of a victim of a delinquent act that would be a felony or that would be a misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5 if committed by an adult, the court may order that such victim be informed of the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-11.01.

E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained in the court order to other law-enforcement officers in the conduct of official duties.

G. Notwithstanding any other provision of law, where consideration of public safety requires, the Department and locally operated court service unit shall release information relating to a juvenile's criminal street gang involvement, if any, and the criminal street gang-related activity and membership of others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of a juvenile and shall include the identity or identifying information of the juvenile; however, the Department and local court service unit shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. Such information shall be released to any State Police, local police department, sheriff's office, or law-enforcement task force that is a part of or administered by the Commonwealth or any political subdivision thereof, and that is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth. The exchange of information shall be for the purpose of an investigation into criminal street gang activity.

H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security a juvenile who has been detained in a secure facility but only upon an adjudication of delinquency or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile is in the United States illegally.

**§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition; disclosure of information; penalty.**

A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i) adjudicated delinquent or convicted of murder or attempted murder, armed robbery, any felony sexual assault or malicious wounding, or a felony violation of a gang-related crime pursuant to Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, or (ii) convicted at least three times for offenses which would be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or adjudications shall include only those for offenses occurring after July 1, 1993. However, any Serious or Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be deemed to have been established pursuant to this article and, notwithstanding the limitations of this subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed to state care pursuant to subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1 may continue to be supervised by SHOCAP until their twenty-first birthday.

B. The Serious or Habitual Offender Comprehensive Action Program (SHOCAP) is a multidisciplinary interagency case management and information sharing system which enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts. Each SHOCAP shall supervise serious or habitual juvenile offenders in the community as well as those under probation or parole supervision and enhance current conduct control, supervision and treatment efforts to provide a more coordinated public safety approach to serious juvenile crime, increase the opportunity for success with juvenile offenders and assist in the development of early intervention strategies.

C. Any county or city in the Commonwealth may by action of its governing body establish a SHOCAP committee. The committee shall consist of representatives from local law enforcement, schools, attorneys for the Commonwealth, juvenile court services, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice. Any county or city which establishes a SHOCAP committee shall, within 45 days of such action, notify the Department of Criminal Justice Services. The Department shall issue statewide SHOCAP guidelines and provide technical assistance to local jurisdictions on implementation of SHOCAP.

D. Each SHOCAP committee shall share among its members and with other SHOCAP committees otherwise confidential information on identified serious or habitual juvenile offenders. Every person, including members of the SHOCAP committee, who is to receive confidential information pursuant to this article shall maintain the confidentiality of that information.

All records and reports concerning serious or habitual juvenile offenders made available to members of a SHOCAP committee and all records and reports identifying an individual offender which are generated by the committee from such reports shall be confidential and shall not be disclosed, except as specifically authorized by this article or other applicable law. Disclosure of the information may be made to other staff from member agencies as authorized by the SHOCAP committee for the furtherance of case management, community supervision, conduct control and locating of the offender for the application and coordination of appropriate services. Staff from the member agencies who receive such information will be governed by the confidentiality provisions of this article. The staff from the member agencies who will qualify to have access to the SHOCAP information shall be limited to those individuals who provide direct services to the offender or who provide community conduct control and supervision to the offender.

The provisions of this article authorizing information sharing between and among SHOCAP committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11 of this title governing dissemination of court and law-enforcement records concerning juveniles, (ii) Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title 37.2 and any regulations enacted pursuant thereto governing access to juvenile mental health records, and (iv) Title 63.2 and any regulations enacted pursuant thereto governing access to records concerning treatments or services provided to a juvenile.

E. It shall be unlawful for any staff person from a member agency to disclose or to knowingly permit, assist or encourage the unauthorized release of any identifying information contained in any reports or records received or generated by a SHOCAP committee. A violation of this subsection shall be punishable as a Class 3 misdemeanor.

674     **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**  
675 **alternative nicotine products, and hemp products intended for smoking by a person under 21**  
676 **years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products,**  
677 **and hemp products intended for smoking to persons under 21 years of age.**

678     A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any  
679 person less than 21 years of age, knowing or having reason to believe that such person is less than 21  
680 years of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product  
681 intended for smoking.

682     Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended  
683 for smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a  
684 conspicuous manner and place, indicating that the purchase or possession of such products by persons  
685 under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is  
686 not generally accessible to persons under 21 years of age. An establishment that prohibits the presence  
687 of persons under 21 years of age unless accompanied by a person 21 years of age or older is not open  
688 to the general public.

689     B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco  
690 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The  
691 provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine  
692 vapor products, alternative nicotine products, or hemp products intended for smoking by a person less  
693 than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative  
694 nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part  
695 of a scientific study being conducted by an organization for the purpose of medical research to further  
696 efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided  
697 that such medical research has been approved by an institutional review board pursuant to applicable  
698 federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of  
699 Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a  
700 law-enforcement officer or his agent when the same is necessary in the performance of his duties.

701     C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or  
702 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's  
703 license or similar photo identification issued by a government agency, that the individual is at least 21  
704 years of age. Such identification is not required from an individual whom the person has reason to  
705 believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the  
706 person demanded, was shown, and reasonably relied upon a photo identification stating that the  
707 individual was at least 21 years of age shall be a defense to any action brought under this subsection. In  
708 determining whether a person had reason to believe an individual is at least 21 years of age, the trier of  
709 fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior,  
710 and manner of the individual.

711     This subsection shall not apply to mail order or Internet sales, provided that the person offering the  
712 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
713 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine  
714 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the  
715 purchaser is at least 21 years of age through a commercially available database that is regularly used by  
716 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a  
717 method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age  
718 before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product  
719 intended for smoking will be released to the purchaser.

720     D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any  
721 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for  
722 smoking to any active duty military personnel who are 18 years of age or older. An identification card  
723 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

724     E. A violation of subsection A or C by an individual or by a separate retail establishment that  
725 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or  
726 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first  
727 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed  
728 \$500 for a third or subsequent violation.

729     A violation of subsection A or C by an individual or by a separate retail establishment that involves  
730 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a  
731 first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the  
732 amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers  
733 proof that it has trained its employees concerning the requirements of this section, the court shall  
734 suspend all of the penalties imposed hereunder. However, where the court finds that a retail  
735 establishment has failed to so train its employees, the court may impose a civil penalty not to exceed

\$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community service for a first violation of subsection B and up to 40 hours of community service for a second or subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant to subdivision A 9 8 of § 16.1-278.8.

Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services may promulgate regulations which allow the Department to undertake the activities necessary to comply with such regulations.

3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which instituted the action.

G. Nothing in this section shall be construed to create a private cause of action.

H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may issue a summons for any violation of this section.

I. As used in this section:

"Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi or beedie.

"Hemp product" means the same as that term is defined in § 3.2-4112.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking in a manner similar to a cigarette or cigar.

**§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for the Commonwealth; duties of Department of Taxation.**

797 A. The clerk of the circuit court and district court of every county and city shall submit to the judge  
798 of his court, the Department of Taxation, the State Compensation Board and the attorney for the  
799 Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties ~~which~~  
800 *that* are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in  
801 his court for a violation of state law or a local ordinance ~~which that~~ remain unsatisfied, including those  
802 ~~which that~~ are delinquent in installment payments. The monthly report shall include the social security  
803 number or driver's license number of the defendant, if known, and such other information as the  
804 Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall  
805 make the report required by this subsection on behalf of those clerks who participate in the Supreme  
806 Court's automated information system.

807 B. The clerk of the circuit court and district court of every county and city shall submit quarterly to  
808 the attorney for the Commonwealth of his county or city and any probation agency that serves such  
809 county or city:

810 1. A list of all defendants with an outstanding balance of restitution ordered by the court served by  
811 such clerk. Such report shall include the defendant's name, case number, total amount of restitution  
812 ordered, amount of restitution remaining due, and last date of payment; and

813 2. A list of all accounts where more than 90 days have passed since an account was sent to  
814 collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For  
815 accounts where restitution is owed, such report shall include the defendant's name, case number, and  
816 total amount of restitution and restitution interest due.

817 C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be  
818 instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The  
819 attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for  
820 such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does  
821 not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth  
822 and the clerk may agree to a process by which collection activity may be commenced 90 days after  
823 judgment.

824 If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private  
825 attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii)  
826 enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of  
827 Taxation, upon such terms and conditions as may be established by guidelines promulgated by the  
828 Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of  
829 Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he  
830 shall follow the procedures established by the Department of Taxation and the Compensation Board.  
831 Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private  
832 attorneys and collection agencies when active collection efforts are being undertaken. As part of such  
833 contract, private attorneys or collection agencies shall be given access to the social security number of  
834 the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the  
835 penalties and provisions of § 18.2-186.3.

836 The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out  
837 of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency  
838 receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act  
839 (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney  
840 for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

841 D. The Department of Taxation and the State Compensation Board shall be responsible for the  
842 collection of any judgment ~~which that~~ remains unsatisfied or does not meet the conditions of § 19.2-354.  
843 Persons owing such unsatisfied judgments or failing to comply with installment payment agreements  
844 under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The  
845 Department of Taxation and the State Compensation Board shall establish procedures to be followed by  
846 clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or  
847 collection agents and may employ private attorneys or collection agencies, or engage other state agencies  
848 to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct  
849 a fee for services from amounts collected for violations of local ordinances.

850 The Department of Taxation and the State Compensation Board shall annually report to the Governor  
851 and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and  
852 unpaid and those ~~which that~~ remain unsatisfied or do not meet the conditions of § 19.2-354 by each  
853 circuit and district court. The report shall include the procedures established by the Department of  
854 Taxation and the State Compensation Board pursuant to this section and a plan for increasing the  
855 collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually  
856 report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to  
857 the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the  
858 procedures established by the Department of Taxation and the State Compensation Board.

The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor, the General Assembly, the Chairmen of the House Committee for Courts of Justice and Senate Committee on the Judiciary, and the Virginia State Crime Commission on the total of restitution assessed, collected, and unpaid for each circuit and district court and the total of restitution collected and deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1 by each circuit and district court.

*The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor and General Assembly on the total fines and costs assessed in the preceding calendar year in all criminal and traffic cases for each circuit court participating in the Office of the Executive Secretary's case management system and for each general district court and juvenile and domestic relations district court. Such report shall include the fines and costs assessed in the preceding calendar year by race of the defendant.*

E. The provisions of this section shall not apply to any orders of restitution docketed in the name of the victim or when it is ordered that an assignment of the judgment for restitution to the victim be docketed.

**§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by electronic means in certain cases; records in office of Department; inspection; clerk's fee for reports.**

A. In the event (i) a person is convicted of a charge described in subdivision A 1 or 2 of § 46.2-382 or § 46.2-382.1, (ii) a person forfeits bail or collateral or other deposit to secure the defendant's appearance on the charges, unless the conviction has been set aside or the forfeiture vacated, (iii) a court assigns a defendant to a driver education program or alcohol treatment or rehabilitation program, or both such programs, as authorized by § 18.2-271.1, (iv) compliance with the court's probation order is accepted by the court in lieu of a conviction under § 18.2-266 or the requirements specified in § 18.2-271 as provided in § 18.2-271.1, or (v) there is rendered a judgment for damages against a person as described in § 46.2-382, every district court or clerk of a circuit court shall forward an abstract of the record to the Commissioner within 18 days after such conviction, forfeiture, assignment, or acceptance, and in the case of civil judgments, on the request of the judgment creditor or his attorney, within 30 days after judgment has become final. No abstract of the record in a district court shall be forwarded to the Commissioner unless the period allowed for an appeal has elapsed and no appeal has been perfected. On or after July 1, 2013, in the event that a conviction or adjudication has been nullified by separate order of the court, the clerk shall forward to the Commissioner an abstract of that record.

B. Abstract data of conviction may be furnished to the Commissioner by electronic means provided that the content of the abstract and the certification complies with the requirements of § 46.2-386. In cases where the abstract data is furnished by electronic means, the paper abstract shall not be required to be forwarded to the Commissioner. The Commissioner shall develop a method to ensure that all data is received accurately. The Commissioner, with the approval of the Governor, may destroy the record of any conviction, forfeiture, assignment, acceptance, or judgment, when three years has elapsed from the date thereof, except records of conviction or forfeiture on charges of reckless driving and speeding, which records may be destroyed when five years has elapsed from the date thereof, and further excepting those records that alone, or in connection with other records, will require suspension or revocation or disqualification of a license or registration under any applicable provisions of this title.

C. The records required to be kept may, in the discretion of the Commissioner, be kept by electronic media or by photographic processes and when so done the abstract of the record may be destroyed.

D. The Code section and description of an offense referenced in an abstract for any juvenile adjudication obtained from a district court or clerk of circuit court pursuant to subdivision A 9 8 of § 16.1-278.8, § 16.1-278.9, clause (iii) of subdivision A 1 of § 46.2-382, or any other provision of law that does not involve an offense referenced in subsection A or an offense involving the operation of a motor vehicle shall be available only to the person himself, his parent or guardian, law-enforcement officers, attorneys for the Commonwealth, and courts.

**§ 46.2-808.2. Violations committed within highway safety corridor; report on benefits.**

Notwithstanding any other provision of law, the fine for any moving violation of any provision of this chapter while operating a motor vehicle in a designated highway safety corridor pursuant to § 33.2-253 shall be no more than \$500 for any violation that is a traffic infraction and not less than \$200 for any violation that is a criminal offense *unless such violation was committed by a juvenile. When a juvenile has been found to be in violation of any provision of this chapter, the court may exercise discretion in the imposition or amount of any fine.*

The otherwise applicable fines set forth in Rule 3B:2 of the Rules of the Supreme Court shall be doubled in the case of a waiver of appearance and a plea of guilty under § 16.1-69.40:1 or 19.2-254.2 for a violation of a provision of this chapter while operating a motor vehicle in a designated highway safety corridor pursuant to § 33.2-253. The Commissioner of Highways shall report, on an annual basis,

920 statistical data related to benefits derived from the designation of such highway safety corridors. This  
921 information may be posted on the Virginia Department of Transportation's official website.  
922 Notwithstanding the provisions of § 46.2-1300, the governing bodies of counties, cities, and towns may  
923 not adopt ordinances providing for penalties under this section.

924 **§ 63.2-100. Definitions.**

925 As used in this title, unless the context requires a different meaning:

926 "Abused or neglected child" means any child less than 18 years of age:

927 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or  
928 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than  
929 accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental  
930 functions, including, but not limited to, a child who is with his parent or other person responsible for his  
931 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled  
932 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person  
933 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would  
934 constitute a felony violation of § 18.2-248;

935 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
936 necessary for his health. However, no child who in good faith is under treatment solely by spiritual  
937 means through prayer in accordance with the tenets and practices of a recognized church or religious  
938 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a  
939 decision by parents who have legal authority for the child or, in the absence of parents with legal  
940 authority for the child, any person with legal authority for the child, who refuses a particular medical  
941 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary  
942 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;  
943 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the  
944 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have  
945 considered alternative treatment options; and (iv) the parents or other person with legal authority and the  
946 child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision  
947 shall be construed to limit the provisions of § 16.1-278.4;

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

949 4. Whose parents or other person responsible for his care, or an intimate partner of such parent or  
950 person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child  
951 in violation of the law;

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

955 6. Whose parents or other person responsible for his care creates a substantial risk of physical or  
956 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as  
957 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who  
958 the parent or other person responsible for his care knows has been convicted of an offense against a  
959 minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

960 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in  
961 the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims  
962 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

963 If a civil proceeding under this title is based solely on the parent having left the child at a hospital  
964 or emergency medical services agency, it shall be an affirmative defense that such parent safely  
965 delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency  
966 services, (ii) an attended emergency medical services agency that employs emergency medical services  
967 providers, or (iii) a newborn safety device located at and operated by such hospital or emergency  
968 medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and  
969 placement for adoption, the court may find such a child is a neglected child upon the ground of  
970 abandonment.

971 "Adoptive home" means any family home selected and approved by a parent, local board or a  
972 licensed child-placing agency for the placement of a child with the intent of adoption.

973 "Adoptive placement" means arranging for the care of a child who is in the custody of a  
974 child-placing agency in an approved home for the purpose of adoption.

975 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable  
976 confinement of an adult as defined in § 63.2-1603.

977 "Adult day care center" means any facility that is either operated for profit or that desires licensure  
978 and that provides supplementary care and protection during only a part of the day to four or more aged,  
979 infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by  
980 the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii)  
981 the home or residence of an individual who cares for only persons related to him by blood or marriage.



Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults. "Adult foster care" does not include services or support provided to individuals through the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists

1043 parents with the process of delegating parental and legal custodial powers of their children pursuant to  
1044 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom  
1045 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title  
1046 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their  
1047 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

1048 "Child-protective services" means the identification, receipt and immediate response to complaints  
1049 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes  
1050 assessment, and arranging for and providing necessary protective and rehabilitative services for a child  
1051 and his family when the child has been found to have been abused or neglected or is at risk of being  
1052 abused or neglected.

1053 "Child support services" means any civil, criminal or administrative action taken by the Division of  
1054 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or  
1055 collect child support, or child and spousal support.

1056 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent  
1057 foster home.

1058 "Children's residential facility" means any facility, child-caring institution, or group home that is  
1059 maintained for the purpose of receiving children separated from their parents or guardians for full-time  
1060 care, maintenance, protection and guidance, or for the purpose of providing independent living services  
1061 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.  
1062 Children's residential facility shall not include:

1063 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,  
1064 return annually to the homes of their parents or guardians for not less than two months of summer  
1065 vacation;

1066 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1067 3. A licensed or accredited hospital legally maintained as such.

1068 "Commissioner" means the Commissioner of the Department, his designee or authorized  
1069 representative.

1070 "Department" means the State Department of Social Services.

1071 "Department of Health and Human Services" means the Department of Health and Human Services  
1072 of the United States government or any department or agency thereof that may hereafter be designated  
1073 as the agency to administer the Social Security Act, as amended.

1074 "Disposable income" means that part of the income due and payable of any individual remaining  
1075 after the deduction of any amount required by law to be withheld.

1076 "Energy assistance" means benefits to assist low-income households with their home heating and  
1077 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,  
1078 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or  
1079 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance  
1080 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the  
1081 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

1082 "Family and permanency team" means the group of individuals assembled by the local department to  
1083 assist with determining planning and placement options for a child, which shall include, as appropriate,  
1084 all biological relatives and fictive kin of the child, as well as any professionals who have served as a  
1085 resource to the child or his family, such as teachers, medical or mental health providers, and clergy  
1086 members. In the case of a child who is 14 years of age or older, the family and permanency team shall  
1087 also include any members of the child's case planning team that were selected by the child in  
1088 accordance with subsection A of § 16.1-281.

1089 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42  
1090 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in  
1091 accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of  
1092 whom they had been the foster parents.

1093 "Fictive kin" means persons who are not related to a child by blood or adoption but have an  
1094 established relationship with the child or his family.

1095 "Foster care placement" means placement of a child through (i) an agreement between the parents or  
1096 guardians and the local board where legal custody remains with the parents or guardians or (ii) an  
1097 entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care  
1098 placement" does not include placement of a child in accordance with a power of attorney pursuant to  
1099 Chapter 10 (§ 20-166 et seq.) of Title 20.

1100 "Foster home" means a residence approved by a child-placing agency or local board in which any  
1101 child, other than a child by birth or adoption of such person or a child who is the subject of a power of  
1102 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural  
1103 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of  
1104 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours

without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 12 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

1166 "Parental placement" means locating or effecting the placement of a child or the placing of a child in  
1167 a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

1168 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the  
1169 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child  
1170 care; and general relief.

1171 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services  
1172 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for  
1173 a home and community-based waiver program, including an independent physician contracting with the  
1174 Department of Medical Assistance Services to complete the uniform assessment instrument for residents  
1175 of assisted living facilities, or any hospital that has contracted with the Department of Medical  
1176 Assistance Services to perform nursing facility pre-admission screenings.

1177 "Qualified individual" means a trained professional or licensed clinician who is not an employee of  
1178 the local board of social services or licensed child-placing agency that placed the child in a qualified  
1179 residential treatment program and is not affiliated with any placement setting in which children are  
1180 placed by such local board of social services or licensed child-placing agency.

1181 "Qualified residential treatment program" means a program that (i) provides 24-hour residential  
1182 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that  
1183 meets the clinical and other needs of children with serious emotional or behavioral disorders, including  
1184 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this  
1185 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site  
1186 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts  
1187 outreach with the child's family members, including efforts to maintain connections between the child  
1188 and his siblings and other family; documents and maintains records of such outreach efforts; and  
1189 maintains contact information for any known biological family and fictive kin of the child; (v) whenever  
1190 appropriate and in the best interest of the child, facilitates participation by family members in the child's  
1191 treatment program before and after discharge and documents the manner in which such participation is  
1192 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months  
1193 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an  
1194 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that  
1195 any child placed in the program receive an assessment within 30 days of such placement by a qualified  
1196 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,  
1197 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)  
1198 identifies whether the needs of the child can be met through placement with a family member or in a  
1199 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified  
1200 residential treatment program, that would provide the most effective and appropriate level of care for the  
1201 child in the least restrictive environment and be consistent with the short-term and long-term goals  
1202 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
1203 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to  
1204 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
1205 16.1-282.1, or 16.1-282.2.

1206 "Residential living care" means a level of service provided by an assisted living facility for adults  
1207 who may have physical or mental impairments and require only minimal assistance with the activities of  
1208 daily living. The definition of "residential living care" includes the services provided by independent  
1209 living facilities that voluntarily become licensed.

1210 "Sibling" means each of two or more children having one or more parents in common.

1211 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic  
1212 violence services, or any other services program implemented in accordance with regulations adopted by  
1213 the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of  
1214 Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14  
1215 of Title 51.5 provided by local departments of social services in accordance with regulations and under  
1216 the supervision of the Commissioner for Aging and Rehabilitative Services.

1217 "Special order" means an order imposing an administrative sanction issued to any party licensed  
1218 pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A  
1219 special order shall be considered a case decision as defined in § 2.2-4001.

1220 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to  
1221 eligible individuals who have received custody of a relative child subject to a kinship guardianship  
1222 assistance agreement developed in accordance with § 63.2-1306.

1223 "Supervised independent living setting" means the residence of a person 18 years of age or older  
1224 who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of  
1225 Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate,  
1226 contracted supervision. "Supervised independent living setting" does not include residential facilities or  
1227 group homes.

1228 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the  
1229 Department through which a relative can receive monthly cash assistance for the support of his eligible  
1230 children.  
1231 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the  
1232 Temporary Assistance for Needy Families program for families in which both natural or adoptive  
1233 parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education  
1234 and Work (VIEW) participation under § 63.2-609.  
1235 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social  
1236 Security Act, as amended, and administered by the Department through which foster care is provided on  
1237 behalf of qualifying children.