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**SENATE BILL NO. 1080**

Offered January 11, 2023

Prefiled January 9, 2023

*A BILL to amend and reenact §§ 16.1-228, 16.1-241, 16.1-242, 16.1-243, 16.1-247, 16.1-248.1 through 16.1-249, 16.1-250, 16.1-254, 16.1-255, 16.1-256, 16.1-259 through 16.1-263, 16.269.1 through 16.1-272, 16.1-273, 16.1-274.1, 16.1-274.2, 16.1-277.1, 16.1-278.7, 16.1-278.8, 16.1-278.8:01, 16.1-280, 16.1-284, 16.1-284.1, 16.1-285, 16.1-285.1, 16.1-287, 16.1-291, 16.1-292, 16.1-293, 16.1-295, 16.1-296, 16.1-297, 16.1-299, 16.1-299.1, 16.1-302, 16.1-305, 16.1-307 through 16.1-309.1, 16.1-356 through 16.1-360, 66-3, 66-3.2, 66-10, 66-12, 66-13, 66-15, 66-18 through 66-21, 66-22.1, and 66-25.1 through 66-25.1:3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-278.9:1, relating to juvenile and domestic relations district courts; Department of Juvenile Justice; adjudication of delinquency.*

Patrons—Edwards, Boysko and Surovell

Referred to Committee on the Judiciary

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

**1. That §§ 16.1-228, 16.1-241, 16.1-242, 16.1-243, 16.1-247, 16.1-248.1 through 16.1-249, 16.1-250, 16.1-254, 16.1-255, 16.1-256, 16.1-259 through 16.1-263, 16.269.1 through 16.1-272, 16.1-273, 16.1-274.1, 16.1-274.2, 16.1-277.1, 16.1-278.7, 16.1-278.8, 16.1-278.8:01, 16.1-280, 16.1-284, 16.1-284.1, 16.1-285, 16.1-285.1, 16.1-287, 16.1-291, 16.1-292, 16.1-293, 16.1-295, 16.1-296, 16.1-297, 16.1-299, 16.1-299.1, 16.1-302, 16.1-305, 16.1-307 through 16.1-309.1, 16.1-356 through 16.1-360, 66-3, 66-3.2, 66-10, 66-12, 66-13, 66-15, 66-18 through 66-21, 66-22.1, and 66-25.1 through 66-25.1:3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-278.9:1 as follows:**

**§ 16.1-228. Definitions.**

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

"Abused or neglected child" means any child:

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

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

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

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

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

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as

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59 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who  
60 the parent or other person responsible for his care knows has been convicted of an offense against a  
61 minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

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

65 If a civil proceeding under this chapter is based solely on the parent having left the child at a  
66 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely  
67 delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency  
68 services, (ii) an attended emergency medical services agency that employs emergency medical services  
69 personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency  
70 medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and  
71 placement for adoption, the court may find such a child is a neglected child upon the ground of  
72 abandonment.

73 "Adoptive home" means the place of residence of any natural person in which a child resides as a  
74 member of the household and in which he has been placed for the purposes of adoption or in which he  
75 has been legally adopted by another member of the household.

76 "Adult" means a person 18 years of age or older *unless otherwise specified*.

77 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile *or an*  
78 *underage person* as a part of the same act or transaction as, or that constitutes a part of a common  
79 scheme or plan with, a delinquent act that would be a felony if committed by an adult *21 years of age*  
80 *or older*.

81 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for  
82 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of  
83 Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

84 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results  
85 in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14  
86 whose behavior, conduct or condition presents or results in a serious threat to the well-being and  
87 physical safety of another person; however, no child who in good faith is under treatment solely by  
88 spiritual means through prayer in accordance with the tenets and practices of a recognized church or  
89 religious denomination shall for that reason alone be considered to be a child in need of services, nor  
90 shall any child who habitually remains away from or habitually deserts or abandons his family as a  
91 result of what the court or the local child protective services unit determines to be incidents of physical,  
92 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

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

98 "Child in need of supervision" means:

99 1. A child who, while subject to compulsory school attendance, is habitually and without justification  
100 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of  
101 any and all educational services and programs that are required to be provided by law and which meet  
102 the child's particular educational needs, (ii) the school system from which the child is absent or other  
103 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,  
104 and (iii) the school system has provided documentation that it has complied with the provisions of  
105 § 22.1-258; or

106 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or  
107 placement authority, remains away from or deserts or abandons his family or lawful custodian on more  
108 than one occasion or escapes or remains away without proper authority from a residential care facility in  
109 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to  
110 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not  
111 presently being received, and (iii) the intervention of the court is essential to provide the treatment,  
112 rehabilitation or services needed by the child or his family.

113 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster  
114 home as defined in § 63.2-100.

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

117 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an  
118 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of  
119 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an  
120 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if

committed by a child.

"Delinquent child" means a child *11 years of age or older* who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

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

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he ~~or she~~ resides in the same home with the person, (ii) the person's former spouse, whether or not he ~~or she~~ resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

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

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.

"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 and who has been 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. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

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

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

182 transfer of a child to a juvenile facility.

183 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district  
184 court of each county or city.

185 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in  
186 this chapter.

187 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to  
188 have physical custody of the child, to determine and redetermine where and with whom he shall live,  
189 the right and duty to protect, train and discipline him and to provide him with food, shelter, education  
190 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal  
191 status created by court order of joint custody as defined in § 20-107.2.

192 "Permanent foster care placement" means the place of residence in which a child resides and in  
193 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation  
194 and agreement between the placing agency and the place of permanent foster care that the child shall  
195 remain in the placement until he reaches the age of majority unless modified by court order or unless  
196 removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of  
197 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term  
198 basis.

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

203 "Qualified residential treatment program" means a program that (i) provides 24-hour residential  
204 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that  
205 meets the clinical and other needs of children with serious emotional or behavioral disorders, including  
206 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this  
207 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site  
208 and within the scope of their practice, and are available 24 hours a day, 7 *seven* days a week; (iv)  
209 conducts outreach with the child's family members, including efforts to maintain connections between  
210 the child and his siblings and other family; documents and maintains records of such outreach efforts;  
211 and maintains contact information for any known biological family and fictive kin of the child; (v)  
212 whenever appropriate and in the best interest of the child, facilitates participation by family members in  
213 the child's treatment program before and after discharge and documents the manner in which such  
214 participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at  
215 least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and  
216 accredited by an organization approved by the federal Secretary of Health and Human Services; and  
217 (viii) requires that any child placed in the program receive an assessment within 30 days of such  
218 placement by a qualified individual that (a) assesses the strengths and needs of the child using an  
219 age-appropriate, evidence-based, validated, and functional assessment tool approved by the  
220 Commissioner of Social Services; (b) identifies whether the needs of the child can be met through  
221 placement with a family member or in a foster home or, if not, in a placement setting authorized by 42  
222 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most  
223 effective and appropriate level of care for the child in the least restrictive environment and be consistent  
224 with the short-term and long-term goals established for the child in his foster care or permanency plan;  
225 (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and  
226 (d) is documented in a written report to be filed with the court prior to any hearing on the child's  
227 placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

228 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the  
229 parent after the transfer of legal custody or guardianship of the person, including but not limited to the  
230 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility  
231 for support.

232 "Secure facility" or "detention home" means a local, regional or state public or private locked  
233 residential facility that has construction fixtures designed to prevent escape and to restrict the movement  
234 and activities of children *and underage persons* held in lawful custody.

235 "Shelter care" means the temporary care of children in physically unrestricting facilities.

236 "State Board" means the State Board of Juvenile Justice.

237 "Status offender" means a child who commits an act prohibited by law ~~which~~ *that* would not be  
238 criminal if committed by an adult.

239 "Status offense" means an act prohibited by law ~~which~~ *that* would not be an offense if committed by  
240 an adult.

241 "*Underage person*" means a person who is 18 years of age or older but younger than 21 years of  
242 age.

243 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of

§ 16.1-269.1 when committed by *an underage person or a juvenile 14 years of age or older.*

**§ 16.1-241. Jurisdiction; consent for abortion.**

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

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

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, *or a status offender, or, in matters involving both juveniles and underage persons*, delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

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

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

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

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

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

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

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

In any case in which ~~the~~ *a juvenile* is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. *In any case in which an underage person is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the underage person committed the act alleged, and any matters related thereto.* In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. *In any case in which an underage person is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for any charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the underage person committed the act alleged, and any matters related thereto.* A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

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

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control, or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father, or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives, and

305 family members. A party with a legitimate interest shall not include any person (i) whose parental rights  
306 have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child  
307 derives from or through a person whose parental rights have been terminated by court order, either  
308 voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents,  
309 blood relatives, and family members, if the child subsequently has been legally adopted, except where a  
310 final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation  
311 of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another  
312 state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was  
313 conceived as a result of such violation. The authority of the juvenile court to consider a petition  
314 involving the custody of a child shall not be proscribed or limited where the child has previously been  
315 awarded to the custody of a local board of social services.

316 A1. Making specific findings of fact required by state or federal law to enable a child to apply for or  
317 receive a state or federal benefit. For the purposes of this subsection only, when the court has obtained  
318 jurisdiction over the case of any child, the court may continue to exercise its jurisdiction until such  
319 person reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to  
320 include findings of fact necessary for the person to petition the federal government for status as a  
321 special immigrant juvenile, as defined by 8 U.S.C. § 1101(a)(27)(J).

322 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the  
323 provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental  
324 illness or judicial certification of eligibility for admission to a training center for persons with  
325 intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.  
326 Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general  
327 district court.

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

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

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

340 F. Any parent, guardian, legal custodian, or other person standing in loco parentis of a child:

341 1. Who has been abused or neglected;

342 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817  
343 or is otherwise before the court pursuant to subdivision A 4; or

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

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

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

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

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

361 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
362 determining whether or not there is probable cause. Any objection based on jurisdiction under this  
363 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial,  
364 before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it  
365 shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for  
366 challenging directly or collaterally the jurisdiction of the court in which the case is tried.

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

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

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

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

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. [Repealed.]

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

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (a) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful and (b) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall

428 be heard and decided no later than five days after the appeal is filed. The time periods required by this  
429 subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent  
430 or without notice shall not be subject to appeal.

431 No filing fees shall be required of the minor at trial or upon appeal.

432 If either the original court or the circuit court fails to act within the time periods required by this  
433 subsection, the court before which the proceeding is pending shall immediately authorize a physician to  
434 perform the abortion without consent of or notice to an authorized person.

435 Nothing contained in this subsection shall be construed to authorize a physician to perform an  
436 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult  
437 woman.

438 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent  
439 has been obtained or the minor delivers to the physician a court order entered pursuant to this section  
440 and the physician or his agent provides such notice as such order may require. However, neither consent  
441 nor judicial authorization nor notice shall be required if the minor declares that she is abused or  
442 neglected and the attending physician has reason to suspect that the minor may be an abused or  
443 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with  
444 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the  
445 facts justifying the exception in the minor's medical record.

446 For purposes of this subsection:

447 "Authorization" means the minor has delivered to the physician a notarized, written statement signed  
448 by an authorized person that the authorized person knows of the minor's intent to have an abortion and  
449 consents to such abortion being performed on the minor.

450 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or  
451 (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with  
452 whom the minor regularly and customarily resides and who has care and control of the minor. Any  
453 person who knows he is not an authorized person and who knowingly and willfully signs an  
454 authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

455 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has  
456 received authorization from an authorized person, or (ii) at least one authorized person is present with  
457 the minor seeking the abortion and provides written authorization to the physician, which shall be  
458 witnessed by the physician or an agent thereof. In either case, the written authorization shall be  
459 incorporated into the minor's medical record and maintained as a part thereof.

460 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical  
461 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate  
462 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial  
463 and irreversible impairment of a major bodily function.

464 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual  
465 notice of his intention to perform such abortion to an authorized person, either in person or by  
466 telephone, at least 24 hours previous to the performance of the abortion or (ii) the physician or his  
467 agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person  
468 by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at  
469 least 72 hours prior to the performance of the abortion.

470 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical  
471 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

472 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid  
473 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any  
474 of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her  
475 parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an  
476 order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

477 X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor  
478 children.

479 Y. Petitions involving minors filed pursuant to § 32.1-45.1 relating to obtaining a blood specimen or  
480 test results.

481 Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of  
482 services and support for persons who meet the eligibility criteria for the Fostering Futures program set  
483 forth in § 63.2-919.

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

486 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of  
487 any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of  
488 § 17.1-272, or subsection B, D, M, or R.

489 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of



subsection W shall be guilty of a Class 3 misdemeanor.

Upon certification by the juvenile and domestic relations district court of any felony charge and ancillary misdemeanor charge committed by an adult *21 years of age or older* or when an appeal of a conviction or adjudication of delinquency of an offense in the juvenile and domestic relations district court is noted, jurisdiction as to such charges shall vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has been withdrawn in the juvenile and domestic relations district court within 10 days pursuant to § 16.1-133.

**§ 16.1-242. Retention of jurisdiction.**

When jurisdiction has been obtained by the court in the case of any child *or underage person*, such jurisdiction, which includes the authority to suspend, reduce, modify, or dismiss the disposition of any juvenile adjudication, may be retained by the court until such person becomes 21 years of age, except when the person is in the custody of the Department or when jurisdiction is divested under the provisions of § 16.1-244. In any event, when such person reaches the age of 21 and a prosecution has not been commenced against him, he shall be proceeded against as an adult, even if he was a juvenile *or an underage person* when the offense was committed.

**§ 16.1-243. Venue.**

**A. Original venue:**

1. Cases involving children, other than support or where protective order issued, *and cases involving underage persons where delinquency is alleged*: Proceedings with respect to children *or underage persons* under this law, except support proceedings as provided in subdivision 2 or family abuse proceedings as provided in subdivision 3, shall:

a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child *or underage person* and the attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child *or underage person* resides;

b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county; (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships; (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233, and 63.2-1237, be commenced in any city or county, provided, however, that diligent efforts shall first be made to commence such hearings (i) in the city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside. In cases in which a hearing is commenced in a city or county other than one described in clause (i), (ii), or (iii), the petitioner shall certify in writing to the court that diligent efforts to commence a hearing in such city or county have been made but have proven ineffective;

d. Abuse and neglect: In cases involving an allegedly abused or neglected child, be commenced (i) in the city or county where the child resides, (ii) in the city or county where the child is present when the proceedings are commenced, or (iii) in the city or county where the alleged abuse or neglect occurred; and

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

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

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

**B. Transfer of venue:**

1. Generally: Except in custody, visitation and support cases, if the child *or underage person* resides

in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's *or underage person's* residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur in delinquency proceedings only after adjudication, which shall include, for the purposes of this section, a finding of facts sufficient to justify a finding of delinquency.

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

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

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

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

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

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

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

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

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

1. Release the child to such child's parents, guardian, custodian, or other suitable person able and willing to provide supervision and care for such child and issue oral counsel and warning as may be appropriate; or

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

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

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

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

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

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

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

2. Place the child in a detention home or in shelter care; or

3. Place the child in a jail subject to the provisions of § 16.1-249.

E. A person taking a child into custody pursuant to the provisions of subsection B, C, or D of § 16.1-246 during such hours as the court is not open, shall:

1. Release the child pursuant to the provisions of subdivision B 1 or B 2 of this section; or

2. Release the child on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2; or

3. Place the child taken into custody pursuant to subsection B of § 16.1-246 in shelter care after the issuance of a detention order pursuant to § 16.1-255; or

4. Place the child taken into custody pursuant to subsection C or D of § 16.1-246 in shelter care or in a detention home after the issuance of a warrant by a magistrate; or

5. Place the child in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate or after the issuance of a detention order pursuant to § 16.1-255; or

6. In addition to any other provisions of this subsection, detain the child for a reasonably necessary period of time in order to administer a breath or blood test to determine the alcohol content of his blood, if such child was taken into custody pursuant to § 18.2-266.

F. A person taking a child into custody pursuant to the provisions of subsection E of § 16.1-246, during such hours as the court is not open, shall:

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

2. Detain the child in a detention home or in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a magistrate or after the issuance of a detention order pursuant to § 16.1-255.

G. A person taking a child into custody pursuant to the provisions of subsection F of § 16.1-246, during such hours as the court is not open, shall:

1. Release the child to the facility or home from which he ran away; or

2. Detain the child in shelter care after the issuance of a detention order pursuant to § 16.1-255 or after the issuance of a warrant by a magistrate.

H. If a parent, guardian, or other custodian fails, when requested, to bring the child before the court as provided in subdivisions B 2 and E 1, the court may issue a detention order directing that the child be taken into custody and be brought before the court.

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

1. Return the child to his home;

2. Release the child to such child's parents, guardian, legal custodian, or other person standing in loco parentis;

3. Place the child in shelter care for a period not longer than 24 hours after the issuance of a detention order pursuant to § 16.1-255; or

4. Release the child.

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

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

K. When an *underage person or an adult 21 years of age or older* is taken into custody pursuant to

674 a warrant, detention order, or capias alleging a delinquent act committed when he was a juvenile, he  
675 may be released on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2. An  
676 intake officer shall have the authority to issue a capias for an adult ~~under the age of 21~~ *underage person*  
677 who is alleged to have committed, before attaining the age of 18, an offense that would be a crime if  
678 committed by an adult *21 years of age or older*.

679 **§ 16.1-248.1. Criteria for detention or shelter care.**

680 A. A ~~juvenile~~ *An underage person* taken into custody whose case is considered by a judge, intake  
681 officer, or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of  
682 the necessary facts, *either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title*  
683 *19.2 or under such conditions as may be imposed or otherwise. The same provisions shall apply to a*  
684 *juvenile taken into custody, except that such juvenile shall be released to the care, custody, and control*  
685 *of such juvenile's parent, guardian, custodian, or other suitable person able and willing to provide*  
686 *supervision and care for such juvenile, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119*  
687 *et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise.* However, at any time  
688 prior to an order of final disposition, a juvenile *or underage person* may be detained in a secure facility,  
689 pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate,  
690 that there is probable cause to believe that the juvenile *or underage person* committed the act alleged;  
691 and that at least one of the following conditions is met:

692 1. The juvenile *or underage person* is alleged to have ~~(a)~~ (i) violated the terms of his probation or  
693 parole when the charge for which he was placed on probation or parole would have been a felony or  
694 Class 1 misdemeanor if committed by an adult; ~~(b)~~ *21 years of age or older*, (ii) committed an act that  
695 would be a felony or Class 1 misdemeanor if committed by an adult; *21 years of age or older*, or ~~(c)~~  
696 (iii) violated any of the provisions of § 18.2-308.7; and there is clear and convincing evidence that:

697 a. Considering the seriousness of the current offense or offenses and other pending charges, the  
698 seriousness of prior adjudicated offenses, the legal status of the juvenile *or underage person* and any  
699 aggravating and mitigating circumstances, the liberty of the juvenile *or underage person*, constitutes a  
700 clear and substantial threat to the person or property of others;

701 b. The liberty of the juvenile *or underage person* would present a clear and substantial threat of  
702 serious harm to such juvenile's *or underage person's* life or health; or

703 c. The juvenile *or underage person* has threatened to abscond from the court's jurisdiction during the  
704 pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within  
705 the immediately preceding 12 months.

706 2. The juvenile *or underage person* has absconded from a detention home or facility where he has  
707 been directed to remain by the lawful order of a judge or intake officer.

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

712 4. The juvenile *or underage person* has failed to appear in court after having been duly served with  
713 a summons in any case in which it is alleged that the juvenile *or underage person* has committed a  
714 delinquent act or that the child is in need of services or is in need of supervision; however, a child  
715 alleged to be in need of services or in need of supervision may be detained for good cause pursuant to  
716 this subsection only until the next day upon which the court sits within the county or city in which the  
717 charge against the child is pending, and under no circumstances longer than 72 hours from the time he  
718 was taken into custody. If the 72-hour period expires on a Saturday, Sunday, legal holiday, or day on  
719 which the court is lawfully closed, the 72 hours shall be extended to the next day that is not a Saturday,  
720 Sunday, legal holiday, or day on which the court is lawfully closed.

721 5. The juvenile *or underage person* failed to adhere to the conditions imposed upon him by the  
722 court, intake officer, or magistrate following his release upon a Class 1 misdemeanor charge or a felony  
723 charge.

724 However, no juvenile younger than 11 years of age shall be placed in secure detention unless such  
725 juvenile is alleged to have committed one or more of the delinquent acts enumerated in subsection B or  
726 C of § 16.1-269.1.

727 When a juvenile *or an underage person* is placed in secure detention, the detention order shall state  
728 the offense for which the juvenile is being detained, and, to the extent practicable, other pending and  
729 previous charges.

730 B. Any juvenile not meeting the criteria for placement in a secure facility shall be released to a  
731 parent, guardian, or other person willing and able to provide supervision and care under such conditions  
732 as the judge, intake officer, or magistrate may impose. However, a juvenile may be placed in shelter  
733 care if:

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

735 2. The juvenile has failed to adhere to the directions of the court, intake officer, or magistrate while

on conditional release;

3. The juvenile's parent, guardian, or other person able to provide supervision cannot be reached within a reasonable time;

4. The juvenile does not consent to return home;

5. Neither the juvenile's parent or guardian nor any other person able to provide proper supervision can arrive to assume custody within a reasonable time; or

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

C. When a juvenile *or an underage person* is detained in a secure facility, the juvenile's *or underage person's* probation officer may review such placement for the purpose of seeking a less restrictive alternative to confinement in that secure facility.

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

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

F. A detention order may be issued pursuant to subdivision A 2 by the committing court or by the court in the jurisdiction from which the juvenile *or underage person* fled or where he was taken into custody.

G. The court is authorized to detain a juvenile *or an underage person* based upon the criteria set forth in subsection A at any time after a delinquency petition has been filed, both prior to adjudication and after adjudication pending final disposition subject to the time limitations set forth in § 16.1-277.1.

H. If the intake officer or magistrate releases the juvenile *or underage person*, either on bail or recognizance or under such conditions as may be imposed, no motion to revoke bail, or change such conditions may be made unless (i) the juvenile *or underage person* has violated a term or condition of his release, or is convicted of or taken into custody for an additional offense, or (ii) the attorney for the Commonwealth presents evidence that incorrect or incomplete information regarding the factors in subsection A was relied upon by the intake officer or magistrate establishing the initial terms of release. If the juvenile court releases the juvenile *or underage person*, either on bail or recognizance or under such conditions as may be imposed, over the objection of the attorney for the Commonwealth, the attorney for the Commonwealth may appeal such decision to the circuit court. The order of the juvenile court releasing the juvenile *or underage person* shall remain in effect until the circuit court, Court of Appeals, or Supreme Court rules otherwise.

**§ 16.1-248.2. Mental health screening and assessment for certain juveniles and underage persons.**

Whenever a juvenile *or an underage person* is placed in a secure facility pursuant to § 16.1-248.1, the staff of the facility shall gather such information from the juvenile *or underage person* and the probation officer as is reasonably available and deemed necessary by the facility staff. As part of the intake procedures at each such facility, the staff shall ascertain the juvenile's *or underage person's* need for a mental health assessment. If it is determined that the juvenile *or underage person* needs such an assessment, the assessment shall take place within ~~twenty-four~~ 24 hours of such determination. The community services board serving the jurisdiction where the facility is located shall be responsible for conducting the assessments and shall be compensated from funds appropriated to the Department of Juvenile Justice for this purpose. The Department of Juvenile Justice shall develop criteria and a compensation plan for such assessments.

**§ 16.1-248.3. Medical records of juveniles and underage persons in secure facility.**

Whenever a juvenile *or an underage person* is placed in a secure facility or a shelter care facility pursuant to § 16.1-248.1, the director of the facility or his designee shall be entitled to obtain medical records concerning the juvenile *or underage person* from a provider. Prior to using the authority granted by this section to obtain such records, the director of the facility or his designee shall make a reasonable attempt to obtain consent for the release of the records from the *underage person or the juvenile's* parent or legal guardian or, in instances where the juvenile may consent pursuant to § 54.1-2969, from the juvenile. The director of the facility or his designee may proceed to obtain the records from the provider if such consent is refused or is not readily obtainable and the records are necessary (i) for the provision of health care to the juvenile *or underage person*, (ii) to protect the health and safety of the juvenile, *the underage person*, or other residents or staff of the facility or (iii) to maintain the security and safety of the facility.

The director or his designee shall document in writing the reason that the records were requested and

797 that a reasonable attempt was made to obtain consent for the release of records and that consent was  
798 refused or not readily obtainable.

799 No person to whom disclosure of records was made pursuant to this section shall redisclose or  
800 otherwise reveal the records, beyond the purpose for which such disclosure was made, without first  
801 obtaining specific consent to redisclose from *the underage person or* the juvenile's parent or legal  
802 guardian or, in instances where the juvenile may consent pursuant to § 54.1-2969, from the juvenile.

803 Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse  
804 Patient Records, 42 C.F.R. Part 2, shall not be subject to the provisions of this section. The disclosure  
805 of results of a test for human immunodeficiency virus shall not be permitted except as provided in  
806 § 32.1-36.1.

807 ~~The definitions of~~ *For purposes of this section, "provider" and "records" mean the same as those*  
808 *terms are defined in § 32.1-127.1:03 shall apply to this section.*

809 **§ 16.1-249. Places of confinement for juveniles or underage persons.**

810 A. If it is ordered that a juvenile *or an underage person* remain in detention or *that a juvenile*  
811 *remain in* shelter care pursuant to § 16.1-248.1, such juvenile *or underage person* may be detained,  
812 pending a court hearing, in the following places:

813 1. An approved foster home or a home otherwise authorized by law to provide such care;

814 2. A facility operated by a licensed child welfare agency;

815 3. If a juvenile is alleged to be delinquent, a detention home or group home approved by the  
816 Department;

817 *3a. If an underage person is alleged to be delinquent, a detention home approved by the*  
818 *Department;*

819 4. Any other suitable place designated by the court and approved by the Department;

820 5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site  
821 of an adult regional jail facility established by any county, *or city* or any combination thereof  
822 constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of  
823 Juvenile Justice for the holding and detention of juveniles *and underage persons*.

824 A juvenile younger than 11 years of age who is alleged to have committed one or more of the  
825 delinquent acts enumerated in subsection B or C of § 16.1-269.1 and who is ordered to remain in  
826 detention or shelter care pursuant to § 16.1-248.1 pending a court hearing may only be detained in a  
827 place described in subdivision 1, 2, or 4, but under no circumstances shall such juvenile be detained  
828 pursuant to this section in a secure detention facility.

829 B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult  
830 offenders *21 years of age or older* or persons charged with crime except as provided in subsection D, E,  
831 F, or G.

832 C. The official in charge of a jail or other facility for the detention of adult offenders *21 years of*  
833 *age or older* or persons charged with crime shall inform the court immediately when a juvenile *or an*  
834 *underage person* who is or appears to be under ~~the 21 years of age of 18 years~~ is received at the  
835 facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated  
836 by the court.

837 D. When a case is transferred to the circuit court in accordance with the provisions of subsection A  
838 of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in  
839 accordance with the provisions of § 16.1-270 where the juvenile *or underage person* has waived the  
840 jurisdiction of the district court, or when the district court has certified a charge to the grand jury  
841 pursuant to subsection B or C of § 16.1-269.1, the juvenile *or underage person*, if in confinement, shall  
842 be placed in a juvenile secure facility, unless the court determines that the juvenile *or underage person*  
843 is a threat to the security or safety of the other juveniles *or underage persons* detained or the staff of  
844 the facility, in which case the court may transfer the juvenile *or underage person* to a jail or other  
845 facility for the detention of adults, provided that the facility is approved by the State Board of Local and  
846 Regional Jails for the detention of juveniles *or underage persons*.

847 E. If, in the judgment of the custodian, a juvenile *or an underage person* has demonstrated that he is  
848 a threat to the security or safety of the other juveniles *or underage persons* detained or the staff of the  
849 home or facility, the judge shall determine whether such juvenile *or underage person* should be  
850 transferred to another juvenile facility or, if the child is 14 years of age or older *or an underage person*,  
851 a jail or other facility for the detention of adults, provided that (i) the detention is in a room or ward  
852 entirely separate and removed from adults *21 years of age or older*, (ii) adequate supervision is  
853 provided, and (iii) the facility is approved by the State Board of Local and Regional Jails for detention  
854 of juveniles.

855 F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile *or an*  
856 *underage person* in a facility creates a threat to the security or safety of the other juveniles *or underage*  
857 *persons* detained or the staff of the home or facility, the custodian may transfer the juvenile *or underage*  
858 *person* to another juvenile facility, or, if the child is 14 years of age or older, a jail or other facility for

the detention of adults pursuant to the limitations of clauses (i), (ii), and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If *an underage person* or a juvenile 14 years of age or older is charged with an offense ~~which~~, *that* if committed by an adult, *21 years of age or older* would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile *or underage person* or the community, such juvenile *or underage person* may be detained for a period not to exceed six hours prior to a court hearing and six hours after the court hearing in a temporary lock-up room or ward for juveniles *or underage persons* while arrangements are completed to transfer the juvenile *or underage person* to a juvenile facility. Such room or ward may be located in a building ~~which~~ *that* also contains a jail or other facility for the detention of adults *21 years of age or older*, provided that (i) such room or ward is totally separate and removed from adults ~~or 21 years of age or older~~, juveniles, *or underage persons* transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.), (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Local and Regional Jails for the detention of juveniles *or underage persons*. The State Board of Local and Regional Jails is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile *or underage person* who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours, provided that the juvenile *or underage person* is entirely separate and removed from detained adults *21 years of age or older*, or (ii) in a nonsecure area, provided that constant supervision is provided.

H. If a judge, intake officer, or magistrate orders the predispositional detention of persons ~~18 21~~ years of age or older, such detention shall be in an adult facility; however, if the predispositional detention is ordered for a violation of the terms and conditions of release from a juvenile correctional center, the judge, intake officer, or magistrate may order such detention be in a juvenile facility.

I. The Departments of Corrections, Juvenile Justice, and Criminal Justice Services shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

**§ 16.1-250. Procedure for detention hearing.**

A. When a child *or underage person* has been taken into immediate custody and not released as provided in § 16.1-247 or § 16.1-248.1, such child *or underage person* shall appear before a judge on the next day on which the court sits within the county or city wherein the charge against the child *or underage person* is pending. In the event the court does not sit within the county or city on the following day, such child *or underage person* shall appear before a judge within a reasonable time, not to exceed 72 hours, after he has been taken into custody. If the 72-hour period expires on a Saturday, Sunday, or other legal holiday, the 72 hours shall be extended to the next day ~~which~~ *that* is not a Saturday, Sunday, or legal holiday. In the event the court does not sit on the following day within the county or city wherein the charge against the child *or underage person* is pending, the court may conduct the hearing in another county or city, but only if two-way electronic video and audio communication is available in the courthouse of the county or city wherein the charge is pending.

B. The appearance of the child *or underage person*, the attorney for the Commonwealth, the attorney for the child *or underage person*, and, *if applicable*, the parent, guardian, legal custodian, or other person standing in loco parentis may be by (i) personal appearance before the judge or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by electronically transmitted facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

C. *Notice* ~~If the subject of the detention hearing is a child, notice~~ of the detention hearing or any rehearing, either oral or written, stating the time, place, and purpose of the hearing shall be given to the parent, guardian, legal custodian, or other person standing in loco parentis if he can be found, to the child's attorney, to the child if 12 years of age or older, and to the attorney for the Commonwealth. *If the subject of the detention hearing is an underage person, notice of the detention hearing or any rehearing, either oral or written, stating the time, place, and purpose of the hearing shall be given to the underage person's attorney, to the underage person, and to the attorney for the Commonwealth.*

D. During the detention hearing, the parties shall be informed of the child's *or underage person's* right to remain silent with respect to any allegation of delinquency and of the contents of the petition. The attorney for the child *or underage person* and the attorney for the Commonwealth shall be given

920 the opportunity to be heard.

921 E. If the judge finds that there is not probable cause to believe that the child *or underage person*  
922 committed the delinquent act alleged, the court shall order his release. If the judge finds that there is  
923 probable cause to believe that the child *or underage person* committed the delinquent act alleged but  
924 that the full-time detention of a child *or underage person* who is alleged to be delinquent is not  
925 required, the court shall order his release, and in so doing, the court may impose one or more of the  
926 following conditions singly or in combination:

927 1. Place the child in the custody of a parent, guardian, legal custodian, or other person standing in  
928 loco parentis under their supervision, or under the supervision of an organization or individual agreeing  
929 to supervise him;

930 2. Place restrictions on the child's *or underage person's* travel, association, or place of abode during  
931 the period of his release;

932 3. Impose any other condition deemed reasonably necessary and consistent with the criteria for  
933 detaining children *or underage persons* specified in § 16.1-248.1; or

934 4. Release the child *or underage person* on bail or recognizance in accordance with the provisions of  
935 Chapter 9 (§ 19.2-119 et seq.) of Title 19.2.

936 F. An order releasing a child *or underage person* on any of the conditions specified in this section  
937 may, at any time, be amended to impose additional or different conditions of release or to return the  
938 child *or underage person* who is alleged to be delinquent to custody for failure to conform to the  
939 conditions previously imposed.

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

942 H. If the *subject of the hearing is a child, and such child* is not released and a parent, guardian,  
943 legal custodian, or other person standing in loco parentis is not notified and does not appear or does not  
944 waive appearance at the hearing, upon the written request of such person stating that such person is  
945 willing and available to supervise the child upon release from detention and to return the child to court  
946 for all scheduled proceedings on the pending charges, the court shall rehear the matter on the next day  
947 on which the court sits within the county or city wherein the charge against the child is pending. If the  
948 court does not sit within the county or city on the following day, such hearing shall be held before a  
949 judge within a reasonable time, not to exceed 72 hours, after the request.

950 I. In considering probable cause under this section, if the court deems it necessary to summon  
951 witnesses to assist in such determination then the hearing may be continued and the child *or underage*  
952 *person* remain in detention, but in no event longer than three consecutive days, exclusive of Saturdays,  
953 Sundays, and legal holidays.

954 **§ 16.1-254. Responsibility for and limitation on transportation of children and underage**  
955 **persons.**

956 A. The detention home having custody or responsibility for supervision of a child *or an underage*  
957 *person* pursuant to §§ 16.1-246, 16.1-247, 16.1-248.1, 16.1-249, and 16.1-250 shall be responsible for  
958 transportation of the child *or underage person* to all local medical appointments, dental appointments,  
959 and psychological and psychiatric evaluations. Transportation of youth to special placements pursuant to  
960 § 16.1-286 shall be the responsibility of the court service unit.

961 B. However, the chief judge of the juvenile and domestic relations district court, on the basis of  
962 guidelines approved by the Board, shall designate the appropriate agencies in each county, city, and  
963 town, other than the Department of State Police, to be responsible for (i) the transportation of violent  
964 and disruptive children *or underage persons* and (ii) the transportation of children *or underage persons*  
965 to destinations other than those set forth in subsection A of this section, pursuant to §§ 16.1-246,  
966 16.1-247, 16.1-248.1, 16.1-249, and 16.1-250, and as otherwise ordered by the judge.

967 No child *or underage person* shall be transported with adults *21 years of age or older* suspected of  
968 or charged with criminal acts.

969 **§ 16.1-255. Limitation on issuance of detention orders for juveniles or underage persons;**  
970 **appearance by juvenile or underage person.**

971 No detention order shall be issued for any juvenile *or an underage person* except when authorized  
972 by the judge or intake officer of a juvenile court or by a magistrate as provided in § 16.1-256.

973 In matters involving the issuance of detention orders each state or local court service unit shall  
974 ensure the capability of a prompt response by an intake officer who is either on duty or on call.

975 A child *or an underage person* may appear before an intake officer either (i) by personal appearance  
976 before the intake officer or (ii) by the use of two-way electronic video and audio communication. All  
977 communications and proceedings shall be conducted in the same manner and the intake officer shall  
978 have the same powers as if the appearance were in person. Any documents filed may be transmitted by  
979 facsimile and the facsimile and any signatures thereon shall serve, for all purposes, as an original  
980 document. Any two-way electronic video and audio communication system used shall comply with the  
981 provisions of subsection B of § 19.2-3.1.



**§ 16.1-256. Limitations as to issuance of warrants for juveniles or underage persons; detention orders.**

No warrant of arrest shall be issued for any juvenile *or underage person* by a magistrate, except as follows:

1. As provided in § 16.1-260 on appeal from a decision of an intake officer to refuse to authorize a petition based solely upon a finding that no probable cause exists; or

2. Upon a finding of probable cause to believe that the child is in need of services or *that a juvenile or an underage person* is a delinquent, when (i) the court is not open and (ii) the judge and the intake officer of the juvenile and domestic relations district court are not reasonably available. For purposes of this section, the phrase "not reasonably available" means that neither the judge nor the intake officer of the juvenile and domestic relations district court could be reached after the appearance by the juvenile *or underage person* before a magistrate or that neither could arrive within one hour after he was contacted.

When a magistrate is authorized to issue a warrant pursuant to subdivision 2, he may also issue a detention order, if the criteria for detention set forth in § 16.1-248.1 have been satisfied.

Warrants issued pursuant to this section shall be delivered forthwith to the juvenile court.

**§ 16.1-259. Procedure in cases of adults 21 years of age or older.**

A. In cases where an adult *21 years of age or older* is charged with violations of the criminal law pursuant to subsection I or J of § 16.1-241, the procedure and disposition applicable in the trial of such cases in general district court shall be applicable to trial in juvenile court. The provisions of this law shall govern in all other cases involving adults *21 years of age or older*.

B. Proceedings in cases of adults *21 years of age or older* may be instituted on petition by any interested party, or on a warrant issued as provided by law, or upon the court's own motion.

C. Proceedings in cases of adults under ~~the age of~~ *21 years of age* who are alleged to have committed, before attaining ~~the age of~~ *18 21 years of age*, an offense that would be a crime if committed by an adult *21 years of age or older* shall be commenced by the filing of a petition.

D. Proceedings for violations of probation or parole in cases of adults under ~~the age of~~ *21 years of age* where jurisdiction is retained pursuant to § 16.1-242 shall be commenced by the filing of a petition.

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

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support, the intake officer shall provide the petitioner information on the possible availability of medical assistance through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored coverage through the Department of Medical Assistance Services.

B. The appearance of a child *or an underage person* before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The

1043 facsimile may be served or executed by the officer or person to whom sent, and returned in the same  
1044 manner, and with the same force, effect, authority, and liability as an original document. All signatures  
1045 thereon shall be treated as original signatures. Any two-way electronic video and audio communication  
1046 system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

1047 When the court service unit of any court receives a complaint alleging facts which may be sufficient  
1048 to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may  
1049 proceed informally to make such adjustment as is practicable without the filing of a petition or may  
1050 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to  
1051 establish probable cause for the issuance of the petition.

1052 An intake officer may proceed informally on a complaint alleging *that* a child is in need of services;  
1053 *or* in need of supervision, *or that a juvenile or an underage person is delinquent* only if the juvenile *or*  
1054 *underage person* (a) is not alleged to have committed a violent juvenile felony or (b) has not previously  
1055 been proceeded against informally or adjudicated delinquent for an offense that would be a felony if  
1056 committed by an adult *21 years of age or older*. A petition alleging that a juvenile *or an underage*  
1057 *person* committed a violent juvenile felony shall be filed with the court. A petition alleging that a  
1058 juvenile *or an underage person* is delinquent for an offense that would be a felony if committed by an  
1059 adult *21 years of age or older* shall be filed with the court if the juvenile had previously been proceeded  
1060 against informally by intake or had been adjudicated delinquent for an offense that would be a felony if  
1061 committed by an adult *21 years of age or older*.

1062 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and  
1063 the attendance officer has provided documentation to the intake officer that the relevant school division  
1064 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the  
1065 court. The intake officer may defer filing the petition and proceed informally by developing a truancy  
1066 plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated  
1067 in need of supervision on more than two occasions for failure to comply with compulsory school  
1068 attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication  
1069 occurred at least three calendar years prior to the current complaint. The juvenile and his parent or  
1070 parents, guardian, or other person standing in loco parentis must agree, in writing, for the development  
1071 of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,  
1072 guardian, or other person standing in loco parentis participate in such programs, cooperate in such  
1073 treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's  
1074 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer  
1075 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an  
1076 interagency interdisciplinary team approach. The team may include qualified personnel who are  
1077 reasonably available from the appropriate department of social services, community services board, local  
1078 school division, court service unit, and other appropriate and available public and private agencies and  
1079 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the  
1080 deferral period the juvenile has not successfully completed the truancy plan or the truancy program, then  
1081 the intake officer shall file the petition.

1082 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child  
1083 is in need of services, *or* in need of supervision, *or that a juvenile or an underage person is delinquent*,  
1084 the intake officer shall (A) develop a plan for the juvenile *or underage person*, which may include  
1085 restitution, the performance of community service, or on a complaint alleging that a child has committed  
1086 a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an  
1087 adult *21 years of age or older* and with the consent of the juvenile's parent or legal guardian, referral to  
1088 a youth justice diversion program established pursuant to § 16.1-309.11, based upon community  
1089 resources and the circumstances which resulted in the complaint, (B) create an official record of the  
1090 action taken by the intake officer and file such record in the juvenile's *or underage person's* case file,  
1091 and (C) advise the *underage person or the juvenile* and the juvenile's parent, guardian, or other person  
1092 standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in  
1093 need of supervision *or that the juvenile or underage person is delinquent* based upon facts which may  
1094 be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to  
1095 a youth justice diversion program established pursuant to § 16.1-309.11, that any subsequent report from  
1096 the youth justice diversion program alleging that the juvenile failed to comply with the youth justice  
1097 diversion program's sentence within 180 days of the sentencing date, may result in the filing of a  
1098 petition with the court.

1099 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,  
1100 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has  
1101 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such  
1102 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,  
1103 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a  
1104 protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of

violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

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

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult *21 years of age or older* would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a finding that no probable cause exists, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall be filed within 10 days of the issuance of the written notification. The written notification shall indicate that the intake officer made a finding that no probable cause exists and shall provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy of the written notification upon application to the magistrate. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile *or underage person* may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult *21 years of age or older* would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final and the complainant shall not have a right to apply to a magistrate for a warrant.

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

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition ~~which that~~ alleges facts of an offense ~~which that~~ would be a felony if committed by an adult *21 years of age or older*.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile *or an underage person* has committed an act, wherever committed, ~~which that~~ would be a crime if committed by an adult, ~~or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court 21 years of age or older~~. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

1166 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,  
 1167 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;  
 1168 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter  
 1169 7 of Title 18.2;  
 1170 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;  
 1171 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;  
 1172 9. Robbery pursuant to § 18.2-58;  
 1173 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;  
 1174 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;  
 1175 12. An act of violence by a mob pursuant to § 18.2-42.1;  
 1176 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or  
 1177 14. A threat pursuant to § 18.2-60.  
 1178 The failure to provide information regarding the school in which the student who is the subject of  
 1179 the petition may be enrolled shall not be grounds for refusing to file a petition.  
 1180 The information provided to a division superintendent pursuant to this section may be disclosed only  
 1181 as provided in § 16.1-305.2.  
 1182 H. The filing of a petition shall not be necessary:  
 1183 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and  
 1184 other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating  
 1185 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.  
 1186 In such cases, the court may proceed on a summons issued by the officer investigating the violation in  
 1187 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle  
 1188 accident may, at the scene of the accident or at any other location where a juvenile *or an underage*  
 1189 *person* who is involved in such an accident may be located, proceed on a summons in lieu of filing a  
 1190 petition.  
 1191 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H  
 1192 of § 16.1-241.  
 1193 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission  
 1194 of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or  
 1195 legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent  
 1196 or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the  
 1197 parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be  
 1198 in the manner provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a  
 1199 violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of  
 1200 blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1  
 1201 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the  
 1202 magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a  
 1203 parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in  
 1204 which the violation is to be tried. When a violation of § 4.1-305 is charged by summons, the juvenile  
 1205 shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant  
 1206 to subsection B, provided that such right is exercised by written notification to the clerk not later than  
 1207 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 is served, the officer  
 1208 shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a  
 1209 form approved by the Supreme Court and make return of such service to the court. If the officer fails to  
 1210 make such service or return, the court shall dismiss the summons without prejudice.  
 1211 4. In the case of offenses ~~which~~, *that* if committed by an adult, *21 years of age or older* would be  
 1212 punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake  
 1213 officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation  
 1214 in the same manner as provided by law for adults, provided that notice of the summons to appear is  
 1215 mailed by the investigating officer within five days of the issuance of the summons to a parent or legal  
 1216 guardian of the juvenile.  
 1217 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of  
 1218 the jurisdiction granted it in § 16.1-241.  
 1219 **§ 16.1-261. Statements made at intake or mental health screening and assessment.**  
 1220 Statements made by a child *or an underage person* to the intake officer or probation officer during  
 1221 the intake process or during a mental health screening or assessment conducted pursuant to § 16.1-248.2  
 1222 and prior to a hearing on the merits of the petition filed against the child; *or an underage person* shall  
 1223 not be admissible at any stage of the proceedings.  
 1224 **§ 16.1-262. Form and content of petition.**  
 1225 A. The petition shall contain the facts below indicated:  
 1226 "Commonwealth of Virginia, In re \_\_\_\_\_ (name of child *or underage person*)" a child under  
 1227 ~~eighteen~~ 18 years of age *or an underage person under 21 years of age*.

"In the Juvenile and Domestic Relations District Court of the county (or city) of \_\_\_\_\_ "

1. Statement of name, age, date of birth, if known, and residence of the child *or underage person*.

2. Statement of names and residence of his parents, guardian, legal custodian, or other person standing in loco parentis and spouse, if any.

3. Statement of names and residence of the nearest known relatives if no parent or guardian can be found.

4. Statement of the specific facts ~~which~~ *that* allegedly bring the child *or underage person* within the purview of this law. If the petition alleges a delinquent act, it shall make reference to the applicable sections of the Code ~~which~~ *that* designate the act a crime.

5. Statement as to whether the child *or underage person* is in custody, and if so, the place of detention or shelter care, and the time the child *or underage person* was taken into custody, and the time the child *or underage person* was placed in detention or shelter care.

B. If the subject of the petition is an *underage person or an adult 21 years of age or older*, the petition shall not state or include the name of or any information concerning the parents, guardians, legal custodian, or person standing in loco parentis of the *underage person or adult 21 years of age or older* subject of the petition except as may be necessary to state the conduct alleged in the petition.

C. If any of the facts herein required to be stated are not known by the petitioner, the petition shall so state. The petition shall be verified, except that petitions filed under § 63.2-1237 may be signed by the petitioner's counsel, and may be upon information.

In accordance with § 16.1-69.32, the Supreme Court may formulate rules for the form and content of petitions in the juvenile court concerning matters related to the custody, visitation or support of a child and the protection, support, or maintenance of an adult where the provisions of this section are not appropriate.

**§ 16.1-263. Summonses.**

A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the juvenile *or underage person*, if the juvenile is ~~twelve or more~~ 12 years of age *or older*, and, *in the case of a juvenile*, another to at least one parent, guardian, legal custodian, or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings.

After a petition has been filed against an adult *21 years of age or older* pursuant to subsection C or D of § 16.1-259, the court shall direct the issuance of a summons against ~~the~~ *such* adult.

The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not a parent of the juvenile in question, a parent shall also be served with a summons. The court may direct that other proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time and place for the hearing.

Any such summons shall be deemed a mandate of the court, and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment for contempt. Upon the failure of any person to appear as ordered in the summons, the court shall immediately issue an order for such person to show cause why he should not be held in contempt.

The parent, guardian, legal custodian, or other person standing in loco parentis shall not be summoned to appear or be punished for failure to appear in cases of *underage persons or adults 21 years of age or older* who are brought before the court pursuant to subsection C or D of § 16.1-259 unless such person is summoned as a witness.

B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the petition shall accompany each summons for the initial proceedings. The summons shall include notice that in the event that the juvenile is committed to the Department or to a secure local facility, at least one parent or other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum for treatment of the juvenile pursuant to § 16.1-290. Notice of subsequent proceedings shall be provided to all parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a copy of the petition and due notice as to time, date, and place of the hearing, such action shall be deemed due notice to such party, unless such counsel has notified the court that he no longer represents such party.

C. The judge may endorse upon the summons an order directing a parent or parents, guardian, or other custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

D. A party, other than the juvenile, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

E. No such summons or notification shall be required if the judge shall certify on the record that (i) the identity of a parent or guardian is not reasonably ascertainable or (ii) in cases in which it is alleged that a juvenile has committed a delinquent act, crime, status offense, or traffic infraction or is in need of services or supervision, the location, or in the case of a parent or guardian located outside of the

Commonwealth the location or mailing address, of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court ~~which that~~ would refute such an affidavit. In cases referred to in clause (ii), an affidavit of a law-enforcement officer or juvenile probation officer that the location of a parent or guardian is not reasonably ascertainable shall be sufficient evidence of this fact, provided that there is no other evidence before the court ~~which that~~ would refute the affidavit.

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

A. Except as provided in subsections B and C, if a juvenile 14 years of age or older *or an underage person* at the time of an alleged offense is charged with an offense ~~which that~~ would be a felony if committed by an adult *21 years of age or older*, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile *or underage person* for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult *21 years of age or older*. Any transfer to the appropriate circuit court shall be subject to the following conditions:

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

2. The juvenile court finds that probable cause exists to believe that the juvenile *or underage person* committed the delinquent act as alleged or a lesser included delinquent act ~~which that~~ would be a felony if committed by an adult *21 years of age or older*;

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

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

a. The juvenile's *or underage person's* age;

b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than 20 years confinement if committed by an adult *21 years of age or older*; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying, or otherwise employing such weapon; and (v) the nature of the juvenile's *or underage person's* participation in the alleged offense;

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

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

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

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

g. The extent, if any, of the juvenile's *or underage person's* degree of intellectual disability or mental illness;

h. The juvenile's *or underage person's* school record and education;

i. The juvenile's *or underage person's* mental and emotional maturity; and

j. The juvenile's *or underage person's* physical condition and physical maturity.

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

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile 16 years of age or older *or an underage person* is charged with murder in violation of § 18.2-31, 18.2-32, or 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2. If the juvenile is 14 years of age or older, but *less younger* than 16 years of age, then the court may proceed, on motion of the attorney for the Commonwealth, as provided in subsection A.

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile 16 years of age or older *or an underage person* is charged with murder in violation of § 18.2-33; felonious injury by mob in violation of § 18.2-41; abduction in violation of § 18.2-48; malicious wounding in violation of § 18.2-51; malicious wounding of a law-enforcement officer in violation of § 18.2-51.1; felonious poisoning in violation of § 18.2-54.1; adulteration of products in violation of § 18.2-54.2; robbery in violation of subdivision B 1 or 2 of § 18.2-58 or carjacking in violation of § 18.2-58.1; rape in violation of § 18.2-61; forcible sodomy in violation of § 18.2-67.1; object sexual penetration in violation of § 18.2-67.2; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance in violation of § 18.2-248 if the juvenile *or underage person* has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248 provided the adjudications occurred after the juvenile *or underage person* was at least 16 years of age; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute methamphetamine in violation of § 18.2-248.03 if the juvenile *or underage person* has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.03 provided the adjudications occurred after the juvenile *or underage person* was at least 16 years of age; or felonious manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute anabolic steroids in violation of § 18.2-248.5 if the juvenile *or underage person* has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.5 provided the adjudications occurred after the juvenile *or underage person* was at least 16 years of age, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. Prior to giving written notice of his intent to proceed pursuant to this subsection, the attorney for the Commonwealth shall submit a written request to the director of the court services unit to complete a report as described in subsection B of § 16.1-269.2 unless waived by the juvenile *or underage person* and his attorney or other legal representative. The report shall be filed with the court and mailed or delivered to (i) the attorney for the Commonwealth and (ii) counsel for the juvenile *or underage person*, or, if the juvenile is not represented by counsel, to the juvenile and a parent, guardian, or other person standing in loco parentis with respect to the juvenile, *or, if the underage person is not represented by counsel, to the underage person*, within 21 days of the date of the written request. After reviewing the report, if the attorney for the Commonwealth still intends to proceed pursuant to this subsection, he shall then provide the written notice of such intent, which shall include affirmation that he reviewed the report. The notice shall be filed with the court and mailed or delivered to counsel for the juvenile *or underage person* or, if the juvenile is not then represented by counsel, to the juvenile and a parent, guardian, or other person standing in loco parentis with respect to the juvenile, *or, if the underage person is not represented by counsel, to the underage person*, at least seven days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such notice, if he elects to withdraw the notice prior to certification of the charge to the grand jury, or if the juvenile is 14 years of age or older, but *less younger* than 16 years of age, he may proceed as provided in subsection A.

D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and ancillary charges ~~which~~ *that* may otherwise be properly within the jurisdiction of the juvenile court.

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

If the court finds that the juvenile *or underage person* was not (i) for the purposes of subsection A, 14 years of age or older or (ii) for purposes of subsection B or C, 16 years of age or older, at the time of the alleged commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 have not been met, the case shall proceed as otherwise provided for by law.

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

**§ 16.1-269.2. Admissibility of statement; investigation and report; bail.**

A. Statements made by the juvenile *or underage person* at the transfer hearing provided for under § 16.1-269.1 shall not be admissible against him over objection in any criminal proceedings following the transfer, except for purposes of impeachment.

B. Prior to a transfer hearing pursuant to subsection A of § 16.1-269.1 or a preliminary hearing

1412 pursuant to subsection C of § 16.1-269.1, a study and report to the court, in writing, relevant to the  
1413 factors set out in subdivision A 4 of § 16.1-269.1, as well as an assessment of any affiliation with a  
1414 criminal street gang as defined in § 18.2-46.1, shall be made by the probation services or other qualified  
1415 agency designated by the court. Upon motion of the attorney for the Commonwealth for a transfer  
1416 hearing pursuant to subsection A of § 16.1-269.1, the attorney for the Commonwealth shall provide  
1417 notice to the designated probation services or other qualified agency of the need for a transfer report.  
1418 Counsel for the juvenile *or underage person* and the attorney for the Commonwealth shall have full  
1419 access to the study and report and any other report or data concerning the juvenile ~~which~~ *or underage*  
1420 *person* that are available to the court. The court shall not consider the report until a finding has been  
1421 made concerning probable cause. If the court so orders, the study and report may be expanded to  
1422 include matters provided for in § 16.1-273, whereupon it may also serve as the report required by this  
1423 subsection, but on the condition that it will not be submitted to the judge who will preside at any  
1424 subsequent hearings except as provided for by law.

1425 C. After the completion of the hearing, whether or not the juvenile court decides to retain jurisdiction  
1426 over the juvenile *or underage person* or transfer such juvenile *or underage person* for criminal  
1427 proceedings in the circuit court, the juvenile court shall set bail for the juvenile *or underage person* in  
1428 accordance with Chapter 9 (§ 19.2-119 et seq.) of Title 19.2, if bail has not already been set.

1429 **§ 16.1-269.3. Retention by juvenile court; appeal.**

1430 If a case is not transferred following a transfer hearing or is not certified following a probable cause  
1431 hearing, the judge who conducted the hearing shall not, over the objection of any interested party,  
1432 preside at the adjudicatory hearing on the petition, but rather it shall be presided over by another judge  
1433 of that court. ~~If In the case of a juvenile 14 years of age or older or an underage person, if the attorney~~  
1434 ~~for the Commonwealth deems it to be in the public interest, and the juvenile is fourteen years of age or~~  
1435 ~~older~~ he may, within ~~ten~~ 10 days after the juvenile court's final decision to retain the case in accordance  
1436 with subsection A of § 16.1-269.1, file a notice of appeal of the decision to the appropriate circuit court.  
1437 A copy of such notice shall be furnished at the same time to the counsel for the juvenile *or underage*  
1438 *person*.

1439 **§ 16.1-269.4. Transfer to circuit court; appeal by juvenile or underage person.**

1440 If the juvenile court transfers the case pursuant to subsection A of § 16.1-269.1, the juvenile *or*  
1441 *underage person* may, within ~~ten~~ 10 days after the juvenile court's final decision, file a notice of appeal  
1442 of the decision to the appropriate circuit court. A copy of the notice shall be furnished at the same time  
1443 to the attorney for the Commonwealth.

1444 **§ 16.1-269.5. Placement of juvenile or underage person.**

1445 The juvenile court may order placement of the transferred juvenile *or underage person* in either a  
1446 local correctional facility as approved by the State Board of Local and Regional Jails pursuant to the  
1447 limitations of subsections D and E of § 16.1-249 or a juvenile detention facility.

1448 **§ 16.1-269.6. Circuit court hearing; jury; termination of juvenile court jurisdiction; objections**  
1449 **and appeals.**

1450 A. Within seven days after receipt of notice of an appeal from the transfer decision pursuant to  
1451 subsection A of § 16.1-269.1, by either the attorney for the Commonwealth or the juvenile *or underage*  
1452 *person*, or if an appeal to such a decision to transfer is not noted, upon expiration of the time in which  
1453 to note such an appeal, the clerk of the court shall forward to the circuit court all papers connected with  
1454 the case, including any report required by subsection B of § 16.1-269.2, as well as a written court order  
1455 setting forth the reasons for the juvenile court's decision. Within seven days after receipt of notice of an  
1456 appeal, the clerk shall forward copies of the order to the attorney for the Commonwealth and other  
1457 counsel of record.

1458 B. The circuit court, when practicable, shall, within 45 days after receipt of the case from the  
1459 juvenile court pursuant to subsection A of § 16.1-269.1, (i) if either the juvenile *or underage person* or  
1460 the attorney for the Commonwealth has appealed the transfer decision, examine all such papers, reports  
1461 and orders and conduct a hearing to take further evidence on the issue of transfer, to determine if there  
1462 has been substantial compliance with subsection A of § 16.1-269.1, but without redetermining whether  
1463 the juvenile court had sufficient evidence to find probable cause; and (ii) enter an order either  
1464 remanding the case to the juvenile court or advising the attorney for the Commonwealth that he may  
1465 seek an indictment. A juvenile *or underage person* held continuously in secure detention shall be  
1466 released from confinement if there is no hearing on the merits of his case within 45 days of the filing of  
1467 the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon  
1468 good cause shown, provided the basis for such extension is recorded in writing and filed among the  
1469 papers of the proceedings. However, in cases where a charge has been certified by the juvenile court to  
1470 the grand jury pursuant to subsection B or C of § 16.1-269.1, the attorney for the Commonwealth may  
1471 seek an indictment upon such charge and any ancillary charge without obtaining an order of the circuit  
1472 court advising him that he may do so.

1473 C. The circuit court order advising the attorney for the Commonwealth that he may seek an



indictment shall divest the juvenile court of its jurisdiction over the case as well as the juvenile court's jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme giving rise to the charge for which the juvenile *or underage person* has been transferred. In addition, upon conviction of the juvenile *or underage person* following transfer or certification and trial as an adult, the circuit court shall issue an order terminating the juvenile court's jurisdiction over that juvenile *or underage person* with respect to any future criminal acts alleged to have been committed by such juvenile *or underage person* and with respect to any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction. However, such an order terminating the juvenile court's jurisdiction shall not apply to any allegations of criminal conduct that would properly be within the jurisdiction of the juvenile and domestic relations district court if the defendant were an adult *21 years of age or older*. Upon receipt of the order terminating the juvenile court's jurisdiction over the juvenile *or underage person*, the clerk of the juvenile court shall forward any pending petitions of delinquency for proceedings in the appropriate general district court.

D. The judge of the circuit court who reviewed the case after receipt from the juvenile court shall not, over the objection of any interested party, preside over the trial of such charge or charges.

E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not made before arraignment.

F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included as applying to the provisions of § 19.2-243.

**§ 16.1-270. Waiver of jurisdiction of juvenile court in certain cases.**

At any time prior to commencement of the adjudicatory hearing, a juvenile ~~fourteen~~ *14* years of age or older *or underage person* charged with an offense ~~which~~ *that* if committed by an adult *21 years of age or older* could be punishable by confinement in a state correctional facility, with the written consent of his counsel, may elect in writing to waive the jurisdiction of the juvenile court and have his case transferred to the appropriate circuit court, in which event his case shall thereafter be dealt with in the same manner as if he had been transferred pursuant to this article.

**§ 16.1-271. Subsequent offenses by juvenile or underage person.**

Conviction of a juvenile *or an underage person* as an adult pursuant to the provisions of this chapter shall preclude the juvenile court from taking jurisdiction of such juvenile *or underage person* for subsequent offenses committed by that juvenile *or underage person*.

Any juvenile *or underage person* who is tried and convicted in a circuit court as an adult under the provisions of this article shall be considered and treated as an adult in any criminal proceeding resulting from any alleged future criminal acts and any pending allegations of delinquency ~~which~~ *that* have not been disposed of by the juvenile court at the time of the criminal conviction.

All procedures and dispositions applicable to adults charged with such a criminal offense shall apply in such cases, including, but not limited to, arrest; probable cause determination by a magistrate or grand jury; the use of a warrant, summons, or capias instead of a petition to initiate the case; adult bail; preliminary hearing and right to counsel provisions; trial in a court having jurisdiction over adults; and trial and sentencing as an adult. The provisions of this article regarding a transfer hearing shall not be applicable to such juveniles *or underage persons*.

**§ 16.1-272. Power of circuit court over a juvenile or an underage offender.**

A. In any case in which a juvenile *or an underage person* 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 *21 years of age or older*, 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.

1. If a juvenile *or an underage person* is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the court may order that (i) the juvenile *or underage person* 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 *or underage person* 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 14 of § 16.1-278.8 or § 16.1-285.1.

2. If the juvenile *or underage person* is convicted of any other felony, the court may sentence or commit the juvenile *or underage* offender in accordance with the criminal laws of ~~this~~ *the* Commonwealth or may in its discretion deal with the juvenile *or underage person* 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 *or underage person* 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 *or underage person* is not convicted of a felony but is convicted of a misdemeanor, the court shall deal with the juvenile *or underage person* 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 *or underage person* 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 *or underage person* as a juvenile *or an underage person* under this chapter or under the criminal law, in cases where the juvenile *or underage person* 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 *or an underage person* is not sentenced as a juvenile *or an underage person* under this chapter, the court shall, in addition to considering any other factor and prior to imposing a sentence, consider (i) the juvenile's *or underage person'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 *or an underage person* 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 *or underage person* as a juvenile *or an underage person* 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 *or an underage person* 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 14 or 17 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 *or underage person* and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile *or an underage person* adjudicated delinquent on the basis of an act committed on or after January 1, 2000, ~~which~~ *that* would be (a) a felony if committed by an adult, *21 years of age or older* 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 *21 years of age or older*, the court shall order the juvenile *or underage person* to undergo a drug screening. If the drug screening indicates that the juvenile *or underage person* 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.

**§ 16.1-274.1. Admission of evidence of juvenile's or underage person's age.**

In any proceeding in a district court or circuit court where a juvenile *or underage person* is alleged to have committed a delinquent act, the Commonwealth shall be permitted to introduce evidence establishing the age of the juvenile *or underage person* at any time prior to adjudication of the case.

**§ 16.1-274.2. Certain education records as evidence.**

A. In any proceeding where (i) a juvenile *or an underage person* is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult *21 years of age or older* and whether such act was committed intentionally or willfully by the juvenile *or an underage person* is an

element of the delinquent act and (ii) such act was committed (a) during school hours, and during school-related or school-sponsored activities upon the property of a public or private elementary or secondary school or child day center; (b) on any school bus as defined in § 46.2-100; or (c) upon any property, public or private, during hours when such property is solely being used by a public or private elementary or secondary school for a school-related or school-sponsored activity, the juvenile *or underage person* shall be permitted to introduce into evidence as relevant to whether he acted intentionally or willfully any document created prior to the commission of the alleged delinquent act that relates to (a) an Individualized Education Program developed pursuant to the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; (b) a Section 504 Plan prepared pursuant to § 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. § 794; (c) a behavioral intervention plan as defined in 8VAC20-81-10; or (d) a functional behavioral assessment as defined in 8VAC20-81-10.

Any such document shall be admitted as evidence of the facts stated therein.

B. At least 10 days prior to the commencement of the proceeding in which a document listed in subsection A will be offered as evidence, the juvenile *or underage person* intending to offer the document shall notify the attorney for the Commonwealth, in writing, of the intent to offer the document and shall provide or make available copies of the document to be introduced.

C. Copies of documents listed in subsection A shall be received as evidence, provided that such copies are authenticated to be true and accurate copies by the custodian thereof, or by the person to whom the custodian reports if they are different. An affidavit signed by the custodian of such documents, or by the person to whom the custodian reports if they are different, stating that such documents are true and accurate copies of such documents shall be valid authentication for the purposes of this section.

D. Upon motion of the juvenile *or underage person*, any document admitted pursuant to this section shall be placed under seal by the court.

**§ 16.1-277.1. Time limitation.**

A. When a child *or an underage person* is held continuously in secure detention, he shall be released from confinement if there is no adjudicatory or transfer hearing conducted by the court for the matters upon which he was detained within ~~twenty-one~~ 21 days from the date he was first detained.

B. If a child *or an underage person* is not held in secure detention or is released from same after having been confined, an adjudicatory or transfer hearing on the matters charged in the petition or petitions issued against him shall be conducted within 120 days from the date the petition or petitions are filed.

C. When a child *or an underage person* is held in secure detention after the completion of his adjudicatory hearing or is detained when the juvenile court has retained jurisdiction as a result of a transfer hearing, he shall be released from such detention if the disposition hearing is not completed within ~~thirty~~ 30 days from the date of the adjudicatory or transfer hearing.

D. The time limitations provided for in this section shall be tolled during any period in which (i) the whereabouts of the child *or underage person* are unknown, (ii) the child *or underage person* has escaped from custody, (iii) the child *or underage person* has failed to appear pursuant to a court order, or (iv) a report is being prepared pursuant to the written request by the attorney for the Commonwealth in accordance with subsection C of § 16.1-269.1. The limitations also may be extended by the court for a reasonable period of time based upon good cause shown, provided that the basis for such extension is recorded in writing and filed among the papers of the proceedings. For the purposes of this section, good cause includes extension of limitations necessary to obtain the presence of a witness to testify regarding the results of scientific analyses or examinations and good cause shown by the director of the court services unit completing a report pursuant to subsection C of § 16.1-269.1 that additional time is needed for the completion of the report.

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

Only a juvenile *or an underage person* 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 14 or A 17 of § 16.1-278.8, at the time a court commits a child *or an underage person* 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 *or underage person* jointly to the Department of Juvenile Justice and to a local board of social services or transfer the custody of a child *or an underage person* 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 or underage persons.**

1658 A. If a juvenile *11 years of age or older or an underage person* is found to be delinquent, except  
1659 where such finding involves a refusal to take a breath test in violation of § 18.2-268.2 or a similar  
1660 ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for  
1661 his supervision, care and rehabilitation:

1662 1. Enter an order pursuant to the provisions of § 16.1-278;

1663 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the  
1664 court may order with respect to the juvenile and his parent;

1665 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such  
1666 treatment or be subject to such conditions and limitations as the court may order and as are designed for  
1667 the rehabilitation of the juvenile and his parent;

1668 4. Defer disposition for a specific period of time established by the court with due regard for the  
1669 gravity of the offense and the juvenile's *or underage person's* history, after which time the charge may  
1670 be dismissed by the judge if the juvenile *or underage person* exhibits good behavior during the period  
1671 for which disposition is deferred;

1672 5. Without entering a judgment of guilty and with the consent of the juvenile *or underage person*  
1673 and his attorney, defer disposition of the delinquency charge for a specific period of time established by  
1674 the court with due regard for the gravity of the offense and the juvenile's *or underage person's* history,  
1675 and place the juvenile *or underage person* on probation under such conditions and limitations as the  
1676 court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile  
1677 *or underage person* and dismiss the proceedings against him. Discharge and dismissal under these  
1678 provisions shall be without adjudication of guilt;

1679 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such  
1680 programs, cooperate in such treatment or be subject to such conditions and limitations as the court may  
1681 order and as are designed for the rehabilitation of the juvenile where the court determines this  
1682 participation to be in the best interest of the juvenile and other parties concerned and where the court  
1683 determines it reasonable to expect the parent to be able to comply with such order;

1684 7. Place the juvenile *or underage person* on probation under such conditions and limitations as the  
1685 court may prescribe;

1686 7a. Place the juvenile *or underage person* on probation and order treatment for the abuse or  
1687 dependence on alcohol or drugs in a program licensed by the Department of Behavioral Health and  
1688 Developmental Services for the treatment of juveniles *or underage persons* for substance abuse,  
1689 provided that (i) the juvenile *or underage person* has received a substance abuse screening and  
1690 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of  
1691 the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates  
1692 that the juvenile *or underage person* is in need of treatment for this condition; (ii) the juvenile *or*  
1693 *underage person* has not previously been and is not currently being adjudicated for a violent juvenile  
1694 felony; and (iii) such facility is available. Upon the juvenile's *or underage person's* withdrawal, removal,  
1695 or refusal to comply with the conditions of participation in the program, he shall be brought before the  
1696 court for a hearing at which the court may impose any other disposition authorized by this section. The  
1697 court shall review such placements at 30-day intervals;

1698 8. Impose a fine not to exceed \$500 upon such juvenile *or underage person*;

1699 9. Suspend the motor vehicle and driver's license of such juvenile *or underage person* or impose a  
1700 curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile  
1701 whose driver's license is suspended may be referred for an assessment and subsequent referral to  
1702 appropriate services, upon such terms and conditions as the court may order. The court, in its discretion  
1703 and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor  
1704 vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of  
1705 § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with  
1706 the provisions of such subsection. However, only an abstract of the court order that identifies the  
1707 juvenile and the conditions under which the restricted license is to be issued shall be sent to the  
1708 Department of Motor Vehicles.

1709 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the  
1710 physical custody of the court during any period of curfew restriction. The court shall send an abstract of  
1711 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall  
1712 preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of ~~this~~  
1713 ~~chapter~~ or the provisions of Title 46.2, this record shall be available only to all law-enforcement  
1714 officers, attorneys for the Commonwealth, and courts. A copy of the court order, upon which shall be  
1715 noted all curfew restrictions, shall be provided to the juvenile and shall contain such information  
1716 regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor  
1717 vehicle under the court order in accordance with its terms.

1718 Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this  
1719 section is guilty of a violation of § 46.2-301.

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

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

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

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

13. Transfer legal custody to any of the following:

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

b. A child welfare agency, private organization, or facility 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. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile *or underage person* and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, commit the juvenile *or underage person* 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 *21 years of age or older*, (b) an offense that would be a Class 1 misdemeanor if committed by an adult *21 years of age or older* and the juvenile *or underage person* has previously been found to be delinquent based on an offense that would be a felony if committed by an adult *21 years of age or older*, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult *21 years of age or older* and the juvenile *or underage person* has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult *21 years of age or older*, and each such offense was not a part of a common act, transaction, or scheme;

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

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

17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile *or underage person* 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. Impose the penalty authorized by § 16.1-278.9; or

19. Require the juvenile *or underage person* 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 *or an underage person* 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.

1781 B. If the court finds a juvenile *11 years of age or older or an underage person* delinquent of any of  
1782 the following offenses, the court shall require the juvenile *or underage person* to make at least partial  
1783 restitution or reparation for any property damage, for loss caused by the offense, or for actual medical  
1784 expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53,  
1785 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  
1786 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court shall  
1787 further require the juvenile *or underage person* to participate in a community service project under such  
1788 conditions as the court prescribes.

1789 **§ 16.1-278.8:01. Juveniles or underage persons found delinquent of first drug offense; screening;**  
1790 **assessment; drug tests; costs and fees; education or treatment programs.**

1791 Whenever any juvenile *or underage person* who has not previously been found delinquent of any  
1792 offense under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or Article 1 (§ 18.2-247 et seq.) of Chapter 7  
1793 of Title 18.2 or under any statute of the United States or of any state relating to narcotic drugs,  
1794 marijuana, or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding  
1795 against him for a violation of such an offense dismissed as provided in § 4.1- 1120 or 18.2-251, is  
1796 found delinquent of any offense concerning the use, in any manner, of drugs, controlled substances,  
1797 narcotics, marijuana, noxious chemical substances, and like substances, the juvenile court or the circuit  
1798 court shall require such juvenile *or underage person* to undergo a substance abuse screening pursuant to  
1799 § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be  
1800 directed by the court. Such testing shall be conducted by a court services unit of the Department of  
1801 Juvenile Justice, or by a locally operated court services unit or by personnel of any program or agency  
1802 approved by the Department. The cost of such testing ordered by the court shall be paid by the  
1803 Commonwealth from funds appropriated to the Department for this purpose. The court shall also order  
1804 the juvenile *or underage person* to undergo such treatment or education program for substance abuse, if  
1805 available, as the court deems appropriate based upon consideration of the substance abuse assessment.  
1806 The treatment or education shall be provided by a program licensed by the Department of Behavioral  
1807 Health and Developmental Services or by a similar program available through a facility or program  
1808 operated by or under contract to the Department of Juvenile Justice or a locally operated court services  
1809 unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et  
1810 seq.).

1811 **§ 16.1-278.9:1. Delinquent act committed by juvenile younger than 11 years of age; disposition.**

1812 *If a juvenile younger than 11 years of age is found to have committed a delinquent act, the juvenile*  
1813 *shall not be proceeded upon as delinquent pursuant to § 16.1-278.8; however, the court may make any*  
1814 *orders of disposition authorized under § 16.1-278.4 or 16.1-278.5.*

1815 **§ 16.1-280. Commitment of juveniles with mental illness or intellectual disability.**

1816 When any juvenile court has found a juvenile to be in need of services or delinquent pursuant to the  
1817 provisions of this law and reasonably believes such juvenile has mental illness or intellectual disability,  
1818 the court may commit him to an appropriate hospital or order mandatory outpatient treatment in  
1819 accordance with the provisions of Article 16 (§ 16.1-335 et seq.) or admit him to a training center in  
1820 accordance with the provisions of § 37.2-806 for observation as to his mental condition. No juvenile  
1821 shall be committed pursuant to this section or Article 16 (§ 16.1-335 et seq.) to a maximum security unit  
1822 within any state hospital where adults determined to be criminally insane reside. However, the  
1823 Commissioner of Behavioral Health and Developmental Services may place a juvenile who has been  
1824 certified to the circuit court for trial as an adult *21 years of age or older* pursuant to § 16.1-269.6 or  
1825 16.1-270 or who has been convicted as an adult of a felony in the circuit court in a unit appropriate for  
1826 the care and treatment of persons under a criminal charge when, in his discretion, such placement is  
1827 necessary to protect the security or safety of other patients, staff, or the public. The Commissioner shall  
1828 notify the committing court of any placement in such unit. The committing court shall review the  
1829 placement at 30-day intervals.

1830 **§ 16.1-284. When adult sentenced for juvenile offense.**

1831 A. When the juvenile court sentences an adult who has committed, before attaining ~~the age of 18~~ *21*  
1832 *years of age*, an offense that would be a crime if committed by an adult *21 years of age or older*, the  
1833 court may impose, for each offense, the penalties that are authorized to be imposed on adults for such  
1834 violations, not to exceed the punishment for a Class 1 misdemeanor, provided that the total jail sentence  
1835 imposed shall not exceed 36 continuous months and the total fine shall not exceed \$2,500 or the court  
1836 may order a disposition as provided in subdivision A 4, 5, 7, 11, 12, 14, or 17 and subsection B of  
1837 § 16.1-278.8.

1838 B. A person sentenced pursuant to this section shall earn good time credit at the rate of one day for  
1839 each one day served, including all days served while confined in jail or secured detention prior to  
1840 conviction and sentencing, in which the person has not violated the written rules and regulations of the  
1841 jail.

1842 **§ 16.1-284.1. Placement in secure local facility.**

A. If a juvenile 14 years of age or older *or an underage person* is found to have committed an offense ~~which~~ *that* if committed by an adult 21 years of age or older would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) that the juvenile *or underage person* has not previously been and is not currently adjudicated delinquent of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that the juvenile *or underage person* has not been released from the custody of the Department within the previous 18 months, (iii) that the interests of the juvenile *or underage person* and the community require that the juvenile *or underage person* be placed under legal restraint or discipline, and (iv) that other placements authorized by this title will not serve the best interests of the juvenile *or underage person*, then the court may order the juvenile *or underage person* confined in a detention home or other secure facility for juveniles for a period not to exceed six months from the date the order is entered, for a single offense or multiple offenses. However, if the single offense or multiple offenses, ~~which~~ *that* if committed by an adult 21 years of age or older would be punishable as a felony or a Class 1 misdemeanor, caused the death of any person, then the court may order the juvenile *or underage person* confined in a detention home or other secure facility for juveniles for a period not to exceed 12 months from the date the order is entered.

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

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

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

C1. The appearance of the juvenile *or underage person* before the court for a hearing pursuant to subsection C may be by (i) personal appearance before the judge or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

D. A juvenile *or an underage person* 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 *or underage persons* 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.

#### § 16.1-285. Duration of commitments.

Except as provided in § 16.1-285.1, all commitments under this chapter shall be for an indeterminate period having regard to the welfare of the juvenile *or underage person* and interests of the public, but no juvenile *or underage person* committed hereunder shall be held or detained longer than ~~thirty-six~~ 36 continuous months or after such juvenile *or underage person* has attained the age of ~~twenty-one~~ 21 years of age. However, the ~~thirty-six month~~ 36-month limitation shall not apply in cases of commitment for an act of murder or manslaughter. The Department shall have the authority to discharge any juvenile, *underage person*, or other person from its custody, including releasing a juvenile, *underage person*, or other person to parole supervision, in accordance with policies and procedures established by the State Board and with other provisions of law. Parole supervision programs shall be operated through the court services units established pursuant to § 16.1-233. A juvenile, *underage person*, or other person who violates the conditions of his parole granted pursuant to this section may be proceeded against for a revocation or modification of parole status pursuant to § 16.1-291.

**§ 16.1-285.1. Commitment of serious offenders.**

A. In the case of a juvenile ~~fourteen~~ 14 years of age or older *or an underage person* who has been found guilty of an offense ~~which that~~ would be a felony if committed by an adult 21 years of age or older, and either (i) the juvenile *or underage person* is on parole for an offense ~~which that~~ would be a felony if committed by an adult 21 years of age or older, (ii) the juvenile *or underage person* was committed to the state for an offense ~~which that~~ would be a felony if committed by an adult 21 years of age or older within the immediately preceding ~~twelve~~ 12 months, (iii) the felony offense is punishable by a term of confinement of greater than ~~twenty~~ 20 years if the felony was committed by an adult 21 years of age or older, or (iv) the juvenile *or underage person* has been previously adjudicated delinquent for an offense ~~which that~~ if committed by an adult 21 years of age or older would be a felony punishable by a term of confinement of ~~twenty~~ 20 years or more, and the circuit court, or the juvenile or family court, as the case may be, finds that commitment under this section is necessary to meet the rehabilitative needs of the juvenile *or underage person* and would serve the best interests of the community, then the court may order the juvenile *or underage person* committed to the Department of Juvenile Justice for placement in a juvenile correctional center for the period of time prescribed pursuant to this section.

Alternatively, in order to determine if a juvenile *or an underage person*, transferred from a juvenile and domestic relations district court to a circuit court pursuant to § 16.1-269.1, appropriately qualifies for commitment pursuant to this section, notwithstanding the inapplicability of the qualification criteria set forth in clauses (i) through (iv), the circuit court may consider the commitment criteria set forth in subdivisions B 1, 2, and 3 of subsection B as well as other components of the juvenile's *or underage person's* life history and, if upon such consideration in the opinion of the court the needs of the juvenile *or underage person* and the interests of the community would clearly best be served by commitment hereunder, may so commit the juvenile *or underage person*.

B. Prior to committing any juvenile *or underage person* pursuant to this section, the court shall consider:

1. The juvenile's *or underage person's* age;
2. The seriousness and number of the present offenses, including (i) whether the offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the offense was against persons or property, with greater weight being given to offenses against persons, especially if death or injury resulted; (iii) whether the offense involved the use of a firearm or other dangerous weapon by brandishing, displaying, threatening with, or otherwise employing such weapon; and (iv) the nature of the juvenile's *or underage person's* participation in the alleged offense;
3. The record and previous history of the juvenile *or underage person* in this or any other jurisdiction, including (i) the number and nature of previous contacts with courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the offense is part of a repetitive pattern of similar adjudicated offenses; and

4. The Department's estimated length of stay.

Such commitment order must be supported by a determination that the interests of the juvenile *or underage person* and community require that the juvenile *or underage person* be placed under legal restraint or discipline and that the juvenile *or underage person* is not a proper person to receive treatment or rehabilitation through other juvenile programs or facilities.

C. In ordering commitment pursuant to this section, the court shall specify a period of commitment not to exceed seven years or the juvenile's *or underage person's* twenty-first birthday, whichever shall occur first. The court may also order a period of determinate or indeterminate parole supervision to follow the commitment but the total period of commitment and parole supervision shall not exceed seven years or the juvenile's *or underage person's* twenty-first birthday, whichever occurs first.



D. Upon receipt of a juvenile *or underage person* committed under the provisions of this section, the Department shall evaluate the juvenile *or underage person* for the purpose of considering placement of the juvenile *or underage person* in an appropriate juvenile correctional center for the time prescribed by the committing court. Such a placement decision shall be made based on the availability of treatment programs at the facility; the level of security at the facility; the offense for which the juvenile has been committed; and the welfare, age and gender of the juvenile *or underage person*.

E. The court ~~which~~ *that* commits the juvenile *or underage person* to the Department under this section shall have continuing jurisdiction over the juvenile *or underage person* throughout his commitment. The continuing jurisdiction of the court shall not prevent the Department from removing the juvenile *or underage person* from a juvenile correctional center without prior court approval for the sole purposes of routine or emergency medical treatment, routine educational services, or family emergencies.

F. Any juvenile *or underage person* committed under the provisions of this section shall not be released at a time earlier than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The Department may petition the committing court, notwithstanding the terms of any plea agreement or commitment order, for a hearing as provided for in § 16.1-285.2 for an earlier release of the juvenile *or underage person* when good cause exists for an earlier release. In addition, notwithstanding the terms of any plea agreement or commitment order, the Department shall petition the committing court for a determination as to the continued commitment of each juvenile *or underage person* sentenced under this section at least ~~sixty~~ 60 days prior to the second anniversary of the juvenile's *or underage person's* date of commitment and ~~sixty~~ 60 days prior to each annual anniversary thereafter.

**§ 16.1-287. Transfer of information upon commitment; information to be furnished by and to local school boards.**

Whenever the court commits a child *or an underage person* to the Department of Juvenile Justice, or to any other institution or agency, it shall transmit with the order of commitment copies of the clinical reports, predisposition study, and other information it has pertinent to the care and treatment of the child *or underage person*. The Department shall not be responsible for any such committed child *or underage person* until it has received the court order and the information concerning the child *or underage person*. All local school boards shall be required to furnish the Department promptly with any information from their files that the Department deems to be necessary in the classification, evaluation, placement, or treatment of any child *or underage person* committed to the Department. The Department of Juvenile Justice's Education Division, pursuant to § 22.1-289, shall likewise be required to furnish local school boards academic, and career and technical education and related achievement information promptly from its files that the local school board may deem necessary when children *or underage persons* are returned to the community from the Department's care. The Department and other institutions or agencies shall give to the court such information concerning the child *or underage person* as the court at any time requires. All such information shall be treated as confidential.

**§ 16.1-291. Revocation or modification of probation, protective supervision or parole; proceedings; disposition.**

A. A juvenile, *underage person*, or *other person* who violates an order of the juvenile court entered into pursuant to §§ 16.1-278.2 through 16.1-278.10 or § 16.1-284, who violates the conditions of his probation granted pursuant to § 16.1-278.5 or 16.1-278.8, or who violates the conditions of his parole granted pursuant to § 16.1-285, 16.1-285.1, or 16.1-293, may be proceeded against for a revocation or modification of such order or parole status. A proceeding to revoke or modify probation, protective supervision, or parole shall be commenced by the filing of a petition. Except as otherwise provided, such petitions shall be screened, reviewed, and prepared in the same manner and shall contain the same information as provided in §§ 16.1-260 and 16.1-262. The petition shall recite the date that the juvenile, *underage person*, or *other person* was placed on probation, under protective supervision, or on parole and shall state the time and manner in which notice of the terms of probation, protective supervision, or parole were given.

B. If a juvenile, *underage person*, or *other person* is found to have violated a prior order of the court or the terms of probation or parole, the court may, in accordance with the provisions of §§ 16.1-278.2 through 16.1-278.10, upon a revocation or modification hearing, modify or extend the terms of the order of probation or parole, including termination of probation or parole. However, notwithstanding the contempt power of the court as provided in § 16.1-292, the court shall be limited in the actions it may take to those that the court may 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.

C. In the event that a child in need of supervision is found to have willfully and materially violated an order of the court or the terms of his probation granted pursuant to § 16.1-278.5, in addition to or in lieu of the dispositions specified in that section, the court may enter any of the following orders of

2027 disposition:

2028 1. Suspend the child's driver's license upon terms and conditions which may include the issuance of a  
2029 restricted license for those purposes set forth in subsection E of § 18.2-271.1; or

2030 2. Order any such child ~~fourteen~~ 14 years of age or older to be (i) placed in a foster home, group  
2031 home, or other nonsecure residential facility, or, (ii) if the court finds that such placement is not likely  
2032 to meet the child's needs, that all other treatment options in the community have been exhausted, and  
2033 that secure placement is necessary in order to meet the child's service needs, detained in a secure facility  
2034 for a period of time not to exceed ~~ten~~ 10 consecutive days for violation of any order of the court or  
2035 violation of probation arising out of the same petition. The court shall state in its order for detention the  
2036 basis for all findings required by this section. When any child is detained in a secure facility pursuant to  
2037 this section, the court shall direct the agency evaluating the child pursuant to § 16.1-278.5 to reconvene  
2038 the interdisciplinary team participating in such evaluation, develop further treatment plans as may be  
2039 appropriate and submit its report to the court of its determination as to further treatment efforts either  
2040 during or following the period the child is in secure detention. A child may only be detained pursuant to  
2041 this section in a detention home or other secure facility in compliance with standards established by the  
2042 State Board. Any order issued pursuant to this subsection is a final order and is appealable as provided  
2043 by law.

2044 D. Nothing in this section shall be construed to reclassify a child in need of supervision as a  
2045 delinquent.

2046 E. If a person adjudicated delinquent and found to have violated an order of the court or the terms of  
2047 his probation or parole was a juvenile *or an underage person* at the time of the original offense and is  
2048 ~~eighteen~~ 21 years of age or older when the court enters disposition for violation of the order of the  
2049 court or the terms of his probation or parole, the dispositional alternative specified in § 16.1-284 shall  
2050 be available to the court.

2051 **§ 16.1-292. Violation of court order by any person.**

2052 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through  
2053 16.1-278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of  
2054 § 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the  
2055 order of the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with,  
2056 (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by  
2057 both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its  
2058 power to punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for  
2059 contempt after notice and an opportunity for a hearing on the contempt except that confinement in the  
2060 case of a juvenile *or an underage person* shall be in a secure facility for juveniles rather than in jail and  
2061 shall not exceed a period of seven days for each offense. However, if the person violating the order was  
2062 a juvenile *or an underage person* at the time of the original act and is ~~18~~ 21 years of age or older when  
2063 the court enters a disposition for violation of the order, the judge may order confinement in jail. If a  
2064 juvenile is found to have violated a court order as a status offender, any order of disposition of such  
2065 violation confining the juvenile in a secure facility for juveniles shall (a) identify the valid court order  
2066 that has been violated; (b) specify the factual basis for determining that there is reasonable cause to  
2067 believe that the juvenile has violated such order; (c) state the findings of fact that support a  
2068 determination that there is no appropriate less restrictive alternative available to placing the juvenile in  
2069 such a facility, with due consideration to the best interest of the juvenile; (d) specify the length of time  
2070 of such confinement, not to exceed seven days; and (e) include a plan for the juvenile's release from  
2071 such facility. Such order of confinement shall not be renewed or extended.

2072 B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order  
2073 of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and  
2074 sentence such party to confinement in a jail, workhouse, city farm, or work squad as provided in  
2075 §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no  
2076 event, however, shall such sentence be imposed for a period of more than 12 months. The sum or sums  
2077 as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance  
2078 of the spouse or the child or children for whose benefit such order or decree provided.

2079 C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may  
2080 take with respect to a child *or an underage person* violating the terms and conditions of an order to  
2081 those which the court could have taken at the time of the court's original disposition pursuant to §§  
2082 16.1-278.2 through 16.1-278.10, except as hereinafter provided. However, this limitation shall not be  
2083 construed to deprive the court of its power to (i) punish a child *or an underage person* summarily for  
2084 contempt for acts set forth in § 18.2-456 subject to the provisions of subsection A or (ii) punish a child  
2085 *or an underage person* for contempt for violation of a dispositional order in a delinquency proceeding  
2086 after notice and an opportunity for a hearing regarding such contempt, including acts of disobedience of  
2087 the court's dispositional order which are committed outside the presence of the court.

2088 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 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. Supervision of juvenile or underage person or person during commitment and on parole; placing juvenile or underage person in halfway house.**

At such time as the court commits a juvenile *or an underage person* to the Department, the juvenile and domestic relations district court service unit shall maintain contact with the juvenile *or underage person* during the juvenile's *or underage person's* commitment.

If a person is placed on parole supervision following that person's release from commitment to the Department, the court services unit providing parole supervision shall furnish the person a written statement of the conditions of his parole and shall instruct him regarding the same. The conditions of the reenrollment plan may be included in the conditions of parole. Violations of parole shall be heard by the court pursuant to § 16.1-291. If the parole supervision is for an indeterminate period of time, the director of the supervising court services unit may approve termination of parole supervision.

The Department shall notify the school division superintendent in the locality where the person was enrolled of his commitment to a facility. The court services unit shall, in consultation with the local school division, the Department's Division of Education and the juvenile correctional counselor, develop a reenrollment plan if the person is of compulsory school attendance age or is eligible for special education services pursuant to § 22.1-213. The reenrollment plan shall be in accordance with regulations adopted by the Board of Education pursuant to § 22.1-17.1. The superintendent shall provide the person's scholastic records, as defined in § 22.1-289, and the terms and conditions of any expulsion which was in effect at the time of commitment or which will be in effect upon release. A court may not order a local school board to reenroll a person who has been expelled in accordance with the procedures set forth in § 22.1-277.06. At least 14 days prior to the person's scheduled release, the Department shall notify the school division superintendent in the locality where the person will reside.

In the event it is determined by the juvenile and domestic relations district court that a person may benefit from placement in the halfway house program operated by the Department, the person may be referred for care and treatment to a halfway house. Persons so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those persons who have violated their parole status.

In the event that the person was in the custody of the local department of social services immediately prior to his commitment to the Department and ~~has not attained the age of~~ *is younger than* 18 years of age, the local department of social services shall resume custody upon the person's release from commitment, unless an alternative arrangement for the custody of the person has been made and

communicated in writing to the Department. At least 90 days prior to the person's release from commitment on parole supervision, (i) the court services unit shall consult with the local department of social services concerning return of the person to the locality and the placement of the person and (ii) the local department of social services and the court services unit shall collaborate to develop a plan that prepares the person for successful transition from the Department's commitment to the custody of the local department of social services or to an alternative custody arrangement if applicable. The plan shall identify the services necessary for such transition and how the services are to be provided. The court services unit will be responsible for supervising the person's terms and conditions of parole.

In the event that the person was in the custody of the local department of social services immediately prior to his commitment to the Department, is ~~between 18 and 21 years of age~~ *an underage person*, provides written notice of his intent to receive independent living services to the local department of social services, and enters into a written agreement with the local department of social services as set forth in § 63.2-905.1, the person shall be eligible to receive independent living services from the local department or a child-placing agency pursuant to § 63.2-905.1. At least 90 days prior to the person's release from commitment on parole supervision, (i) the court services unit shall inform the person of the availability of independent living services and shall consult with the local department of social services concerning return of the person to the locality and living arrangements for the person and (ii) the local department of social services and the court services unit shall work collaboratively to develop a plan for the successful transition of the person from the custody of the Department to independent living, which shall identify the services necessary to facilitate the person's transition to independent living and describe how the necessary services shall be provided.

In all cases in which a person who is in the custody of the local department of social services is committed to the Department, the local department of social services and the Department shall work cooperatively through the duration of the person's commitment to ensure communication of information regarding the status of the person and to facilitate transition planning for the person prior to his release.

**§ 16.1-295. Transfer of supervision from one county or city to another, or to another state.**

If any person on probation to or under the supervision of any juvenile probation officer or other officer of the court removes his residence or place of abode from the county or city in which he was so placed on probation or under supervision to another county or city in the Commonwealth, the court in the city or county from which he removed his residence or place of abode may then arrange the transfer of the supervision to the city or county to which he moves his place of residence or abode, or such transfer may be ordered by the transferring court.

The Director of the Department of Juvenile Justice may make provision for the transfer of a juvenile *or an underage person* placed on probation in ~~this~~ *the* Commonwealth to another state to be there placed on probation under the terms of Article 4 (§ 53.1-166 et seq.) of Chapter 4 of Title 53.1.

The costs of returning juveniles *or underage persons* on probation or parole to their places of residence, whether within or outside of ~~this~~ *the* Commonwealth, shall be paid in accordance with regulations established by the State Board from funds appropriated in the general appropriation act for criminal costs.

**§ 16.1-296. Jurisdiction of appeals; procedure.**

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the entry of a final judgment, order, or conviction and shall be heard de novo. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal, the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child *or an underage person* on a finding that he ~~or she~~ is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child *or underage person*, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one ~~which~~ *that*, if committed by an adult, *21 years of age or older* would constitute a felony, the child *or underage person* shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child *or underage person* guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child *or an underage person* on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile *or an underage person* on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile *or underage person* is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile *or an underage person* held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts and shall be assigned a case number within two business days of receipt of such appeal.

If a party files an appeal of a district court order of protection entered pursuant to § 16.1-279.1, such notice of appeal shall be on a form prescribed by the Office of the Executive Secretary. The district court clerk shall contact the appellate court to determine whether the hearing on the appeal shall be set by the appellate court on (i) a date scheduled by the district court clerk with the court, (ii) on the next docket call date, or (iii) a date set for district court appeals. Once the hearing date is set and the appeal documents have been transmitted, the appellate court shall have the parties served with notice of the appeal stating the date and time of the hearing in accordance with subdivision 1 of § 8.01-296. No such hearing on the appeal shall be heard in the appellate court unless the appellee has been so served with such notice or notice has been waived by the non-moving party.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded

2273 against him in the appellate court. If the appeal is by a party against whom there is no recovery, the  
2274 bond shall be conditioned for the payment of any damages as may be awarded against him on the  
2275 appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

2276 This subsection shall not apply to release on bail pursuant to other subsections of this section or  
2277 § 16.1-298.

2278 I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers  
2279 and authority granted by the chapter to the juvenile and domestic relations district court. Unless  
2280 otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint  
2281 counsel for the parties and compensate such counsel in accordance with the provisions of Article 6  
2282 (§ 16.1-266 et seq.) of this chapter.

2283 J. In any case ~~which that~~ has been referred or transferred from a circuit court to a juvenile court and  
2284 an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the  
2285 circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

2286 **§ 16.1-297. Final judgment; copy filed with juvenile court; proceeding may be remanded to**  
2287 **juvenile court.**

2288 Upon the rendition of final judgment upon an appeal from the juvenile and domestic relations district  
2289 court, the circuit court shall cause a copy of its judgment to be filed with the juvenile court within  
2290 ~~twenty-one~~ 21 days of entry of its order, which shall thereupon become the judgment of the juvenile  
2291 court. In the event such circuit court does not dismiss the proceedings or discharge such child, *underage*  
2292 *person*, or adult *21 years of age or older*, the circuit court may remand the child, *underage person*, or  
2293 adult *21 years of age or older* to the jurisdiction of the juvenile court for its supervision and care, under  
2294 the terms of its order or judgment, and thereafter such child, *underage person*, or adult *21 years of age*  
2295 *or older* shall be and remain under the jurisdiction of the juvenile court in the same manner as if such  
2296 court had rendered the judgment in the first instance.

2297 **§ 16.1-299. Fingerprints and photographs of juveniles.**

2298 A. All duly constituted police authorities having the power of arrest shall take fingerprints and  
2299 photographs of any juvenile *or underage person* who is taken into custody and charged with a  
2300 delinquent act an arrest for which, if committed by an adult *21 years of age or older*, is required to be  
2301 reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390. Whenever  
2302 fingerprints are taken, they shall be maintained separately from adult records and a copy shall be filed  
2303 with the juvenile court on forms provided by the Central Criminal Records Exchange.

2304 B. If a juvenile *or an underage person* of any age (i) is convicted of a felony, (ii) is adjudicated  
2305 delinquent of an offense that would be a felony if committed by an adult *21 years of age or older*, (iii)  
2306 has a case involving an offense, ~~which that~~ would be a felony if committed by an adult, *21 years of age*  
2307 *or older* that is dismissed pursuant to the deferred disposition provisions of § 16.1-278.8, or (iv) is  
2308 convicted or adjudicated delinquent of any other offense for which a report to the Central Criminal  
2309 Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult,  
2310 copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal  
2311 Records Exchange and to the jurisdiction making the arrest by the clerk of the court which heard the  
2312 case.

2313 C. If a petition or warrant is not filed against a juvenile *or an underage person* whose fingerprints or  
2314 photographs have been taken in connection with an alleged violation of law, the fingerprint card, all  
2315 copies of the fingerprints, and all photographs shall be destroyed 60 days after fingerprints were taken.  
2316 If a juvenile *or an underage person* charged with a delinquent act other than a violent juvenile felony or  
2317 a crime ancillary thereto is found not guilty, or in any other case resulting in a disposition for which  
2318 fingerprints are not required to be forwarded to the Central Criminal Records Exchange, the court shall  
2319 order that the fingerprint card, all copies of the fingerprints, and all photographs be destroyed within six  
2320 months of the date of disposition of the case.

2321 **§ 16.1-299.1. Sample required for DNA analysis upon conviction or adjudication of felony.**

2322 A juvenile *or an underage person* convicted of a felony or adjudicated delinquent on the basis of an  
2323 act ~~which that~~ would be a felony if committed by an adult *21 years of age or older* shall have a sample  
2324 of his blood, saliva, or tissue taken for DNA analysis, provided *that, in the case of a juvenile*, the  
2325 juvenile was 14 years of age or older at the time of the commission of the offense.

2326 The provisions of Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 shall apply to all  
2327 persons and all DNA samples taken as required by this section, mutatis mutandis.

2328 The Department of Juvenile Justice shall verify that a DNA sample required to be taken has been  
2329 received by the Department of Forensic Science. In any case where a DNA sample has not been  
2330 received, the Department of Juvenile Justice shall notify the court and the court shall require the person  
2331 to submit a sample for DNA analysis.

2332 **§ 16.1-302. Dockets, indices, and order books; when hearings and records private; right to**  
2333 **public hearing; presence of juvenile in court.**

2334 A. Every juvenile court shall keep a separate docket of cases arising under this law.

B. Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate order book or file for cases on appeal from the juvenile court except (i) cases involving support pursuant to § 20-61 or subdivision A 3 or subsection F or L of § 16.1-241; (ii) cases involving criminal offenses committed by adults *21 years of age or older* which are commenced on a warrant or a summons as described in Title 19.2; and (iii) cases involving civil commitments of adults pursuant to Title 37.2. Such cases shall be docketed on the appropriate docket and the orders in such cases shall be entered in the appropriate order book as used with similar cases commenced in circuit court. In any child or spousal support case appealed to the circuit court, the case files shall be open for inspection only as provided by § 16.1-305.01.

C. The general public shall be excluded from all juvenile court hearings and only such persons admitted as the judge shall deem proper. However, proceedings in cases involving an adult charged with a crime and hearings held on a petition or warrant alleging that a juvenile ~~fourteen~~ *14* years of age or older committed an offense ~~which~~ *that* would be a felony if committed by an adult *21 years of age or older* shall be open. Subject to the provisions of subsection D for good cause shown, the court may, sua sponte or on motion of the accused or the attorney for the Commonwealth, close the proceedings. If the proceedings are closed, the court shall state in writing its reasons and the statement shall be made a part of the public record.

D. In any hearing held for the purpose of adjudicating an alleged violation of any criminal law, or law defining a traffic infraction, the juvenile, *underage person*, or adult *21 years of age or older* so charged shall have a right to be present and shall have the right to a public hearing unless expressly waived by such person. The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction may waive court appearance and admit to the infraction or infractions charged if he ~~or she~~ and a parent, legal guardian, or person standing in loco parentis to the juvenile appear in person at the court or before a magistrate or sign and either mail or deliver to the court or magistrate a written form of appearance, plea, and waiver, provided that the written form contains the notarized signature of the parent, legal guardian, or person standing in loco parentis to the juvenile. An emancipated juvenile charged with a traffic infraction shall have the opportunity to waive court appearance and admit to the infraction or infractions if he ~~or she~~ appears in person at the court or before a magistrate or signs and either mails or delivers to the court or magistrate a written form of appearance, plea, and waiver, provided that the written plea form containing the signature of the emancipated juvenile is accompanied by a notarized sworn statement ~~which~~ *that* details the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding is to determine the custody of a child of tender years, the presence of such juvenile in court may be waived by the judge at any stage thereof.

**§ 16.1-305. Confidentiality of court records.**

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

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

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

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

4. Any other person, agency, or institution, by order of the court, having a legitimate interest in the case or in the work of the court. However, for the purposes of an investigation conducted by a local community-based probation services agency, preparation of a pretrial investigation report, or of a presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a local community-based probation services agency established or operated pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial services or probation officer shall have access to the defendant's records in juvenile court without a court order;

2396 5. Any attorney for the Commonwealth and any local pretrial services or community-based probation  
2397 officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court  
2398 delinquency records maintained in an electronic format by the court for the strictly limited purposes of  
2399 preparing a pretrial investigation report, including any related risk assessment instrument, any  
2400 presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment  
2401 instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

2402 A copy of the court order of disposition in a delinquency case shall be provided to a probation  
2403 officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing  
2404 guidelines. The copies shall remain confidential, but reports may be prepared using the information  
2405 contained therein as provided in §§ 19.2-298.01 and 19.2-299.

2406 6. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for  
2407 purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

2408 A1. Any person, agency, or institution that may inspect juvenile *or underage person* case files  
2409 pursuant to subdivisions A 1 through 4 shall be authorized to have copies made of such records, subject  
2410 to any restrictions, conditions, or prohibitions that the court may impose.

2411 B. All or any part of the records enumerated in subsection A, or information secured from such  
2412 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also  
2413 be made available to the parties to the proceedings and their attorneys.

2414 B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the  
2415 basis of an act ~~which~~ *that* would be a felony if committed by an adult *21 years of age or older*, all  
2416 court records regarding that adjudication and any subsequent adjudication of delinquency, other than  
2417 those records specified in subsection A, shall be open to the public. However, if a hearing was closed,  
2418 the judge may order that certain records or portions thereof remain confidential to the extent necessary  
2419 to protect any juvenile victim or juvenile witness.

2420 C. All other juvenile records *or records relating to an underage person*, including the docket,  
2421 petitions, motions, and other papers filed with a case, transcripts of testimony, findings, verdicts, orders,  
2422 and decrees shall be open to inspection only by those persons and agencies designated in subsections A  
2423 and B. However, a licensed bail bondsman shall be entitled to know the status of a bond he has posted  
2424 or provided surety on for a juvenile under § 16.1-258. This shall not authorize a bail bondsman to have  
2425 access to or inspect any other portion of his principal's juvenile court records.

2426 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for  
2427 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,  
2428 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney  
2429 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney  
2430 that such papers are needed as evidence in a pending criminal or traffic proceeding and that such papers  
2431 will be only used for such evidentiary purpose.

2432 D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act  
2433 that would be a felony if committed by an adult *21 years of age or older*, which show the charge,  
2434 finding, disposition, name of the attorney for the juvenile, or waiver of attorney by the juvenile, shall be  
2435 furnished to an attorney for the Commonwealth upon his certification that such papers are needed as  
2436 evidence in a pending criminal prosecution for a violation of § 18.2-308.2 and that such papers will be  
2437 only used for such evidentiary purpose.

2438 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to  
2439 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an  
2440 award to the victim of a crime, and such information shall not be disseminated or used by the  
2441 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

2442 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the  
2443 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a  
2444 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the  
2445 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a  
2446 written request, the Department of Juvenile Justice shall provide advance notice of such juvenile  
2447 offender's anticipated date of release from commitment.

2448 G. Any record in a juvenile case file ~~which~~ *that* is open for inspection by the professional staff of  
2449 the Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by  
2450 the court, may be transmitted electronically to the Department of Juvenile Justice. Any record so  
2451 transmitted shall be subject to the provisions of § 16.1-300.

2452 **§ 16.1-307. Circuit court records regarding juveniles or underage persons.**

2453 In proceedings against a juvenile *or an underage person* in the circuit court in which the circuit  
2454 court deals with the child *or underage person* in the same manner as a case in the juvenile court, the  
2455 clerk of the court shall preserve all records connected with the proceedings in files separate from other  
2456 files and records of the court as provided in § 16.1-302. Except as provided in §§ 19.2-389.1 and  
2457 19.2-390, such records shall be open for inspection only in accordance with the provisions of § 16.1-305



and shall be subject to expungement provisions of § 16.1-306. In proceedings in which a juvenile, ~~fourteen~~ 14 years of age or older *or an underage person* at the time of the offense, was adjudicated delinquent in juvenile court on the basis of an act ~~which~~ *that* would be a felony if committed by an adult *21 years of age or older*, or was found guilty of a felony in the circuit court, any court records, other than those specified in subsection A of § 16.1-305, regarding that adjudication or conviction and any subsequent adjudication of delinquency or conviction of a crime, shall be available and shall be treated in the same manner as adult criminal records.

**§ 16.1-308. Effect of adjudication on status of child or underage person.**

Except as otherwise provided by law for a juvenile *or an underage person* found guilty of a felony in circuit court whose case is disposed of in the same manner as an adult criminal case, a finding of guilty on a petition charging delinquency under the provisions of this law shall not operate to impose any of the civil disabilities ordinarily imposed by conviction for a crime, nor shall any such finding operate to disqualify the child *or underage person* for employment by any state or local governmental agency.

Nothing in this section shall prohibit the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof from denying employment to a person who had been adjudicated delinquent where such denial is based on the nature and gravity of the offense, the time since adjudication, the time since completion of any sentence, and the nature of the job sought.

**§ 16.1-309. Penalty.**

A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305, and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile *or underage person* who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions A 1 through 5 or ~~subdivision A 7~~ of § 16.1-241 or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court, or the Department of Juvenile Justice or acquired in the course of official duties, is guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile *or underage person* who is suspected of committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile *or underage person*. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made in compliance with those sections.

**§ 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 *or an underage person* and the nature of the offense for which a juvenile *or an underage person* has been adjudicated delinquent (i) for an act ~~which~~ *that* 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 *21 years of age or older* or (ii) in any case where a juvenile *or an underage person* is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile *or an underage person* charged with a delinquent act ~~which~~ *that* would constitute a felony if committed by an adult *21 years of age or older*, 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 *or underage person's* attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's *or underage person'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~~ *that* may expedite his apprehension. Upon a showing that the juvenile *or underage person* is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile *or an underage person* charged with a delinquent act that would constitute a felony if committed by an adult *21 years of age or older*, 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

2519 when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a  
2520 locally operated court services unit may, with notice to the juvenile's *or underage person's* attorney of  
2521 record, authorize the public release of the juvenile's *or underage person's* name, age, physical  
2522 description, and photograph, the charge for which he is sought, and any other information ~~which that~~  
2523 may expedite his apprehension.

2524 b. At any time prior to disposition, if a juvenile *or an underage person* charged with a delinquent act  
2525 ~~which that~~ would constitute a misdemeanor if committed by an adult *21 years of age or older*, or held  
2526 in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a  
2527 fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's *or underage*  
2528 *person's* attorney of record, petition the court having jurisdiction of the offense to authorize public  
2529 release of the juvenile's *or underage person's* name, age, physical description, and photograph, the  
2530 charge for which he is sought or for which he was adjudicated, and any other information ~~which that~~  
2531 may expedite his apprehension. Upon a showing that the juvenile *or underage person* is a fugitive and  
2532 for good cause, the court shall order release of this information to the public. If a juvenile *or an*  
2533 *underage person* charged with a delinquent act that would constitute a misdemeanor if committed by an  
2534 adult *21 years of age or older*, or held in custody by a law-enforcement officer, or held in a secure  
2535 facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in  
2536 session, the attorney for the Commonwealth may, with notice to the juvenile's *or underage person's*  
2537 attorney of record, authorize the public release of the juvenile's *or underage person's* name, age,  
2538 physical description, and photograph, the charge for which he is sought, and any other information  
2539 ~~which that~~ may expedite his apprehension.

2540 2. After final disposition, if a juvenile *or an underage person* (i) found to have committed a  
2541 delinquent act becomes a fugitive from justice or (ii) who has been committed to the Department of  
2542 Juvenile Justice pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from  
2543 justice by escaping from a facility operated by or under contract with the Department or from the  
2544 custody of any employee of such facility, the Department may release to the public the juvenile's *or*  
2545 *underage person's* name, age, physical description, and photograph, the charge for which he is sought or  
2546 for which he was committed, and any other information ~~which that~~ may expedite his apprehension. The  
2547 Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the  
2548 juvenile *or underage person* was tried whenever information is released pursuant to this subdivision. If a  
2549 juvenile *or an underage person* specified in clause (i) being held after disposition in a secure facility not  
2550 operated by or under contract with the Department becomes a fugitive by such escape, the attorney for  
2551 the Commonwealth of the locality in which the facility is located may release the information as  
2552 provided in this subdivision.

2553 C. Whenever a juvenile 14 years of age or older *or an underage person* is charged with a delinquent  
2554 act that would be a criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a  
2555 felony involving a weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title  
2556 18.2, or an "act of violence" as defined in subsection A of § 19.2-297.1 if committed by an adult *21*  
2557 *years of age or older*, the judge may, where consideration of the public interest requires, make the  
2558 juvenile's *or underage person's* name and address available to the public.

2559 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a  
2560 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  
2561 if committed by an adult *21 years of age or older*, the court may order that such victim be informed of  
2562 the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of  
2563 this section, "victim" ~~shall be~~ *means the same as that term is* defined as in § 19.2-11.01.

2564 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant  
2565 to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been  
2566 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

2567 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or  
2568 other restriction on a juvenile *or an underage person* may be provided to the chief law-enforcement  
2569 officer of the county or city wherein the juvenile *or underage person* resides. The chief law-enforcement  
2570 officer shall only disclose information contained in the court order to other law-enforcement officers in  
2571 the conduct of official duties.

2572 G. Notwithstanding any other provision of law, where consideration of public safety requires, the  
2573 Department and locally operated court service unit shall release information relating to a juvenile's *or an*  
2574 *underage person's* criminal street gang involvement, if any, and the criminal street gang-related activity  
2575 and membership of others, as criminal street gang is defined in § 18.2-46.1, obtained from an  
2576 investigation or supervision of a juvenile *or an underage person* and shall include the identity or  
2577 identifying information of the juvenile *or underage person*; however, the Department and local court  
2578 service unit shall not release the identifying information of a juvenile *or an underage person* not  
2579 affiliated with or involved in a criminal street gang unless that information relates to a specific criminal  
2580 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 *or an underage person* 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 *or underage person* is in the United States illegally.

#### Article 18.

#### Juvenile and Underage Person Competency.

#### § 16.1-356. Raising question of competency to stand trial; evaluation and determination of competency.

A. If, at any time after the attorney for the juvenile *or underage person* has been retained or appointed pursuant to a delinquency proceeding and before the end of trial, the court finds, sua sponte or upon hearing evidence or representations of counsel for the juvenile *or underage person* or the attorney for the Commonwealth, that there is probable cause to believe that the juvenile *or underage person* lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist, clinical psychologist, licensed professional counselor, licensed clinical social worker, or licensed marriage and family therapist, who is qualified by training and experience in the forensic evaluation of juveniles *or underage persons*.

The Commissioner of Behavioral Health and Developmental Services shall approve the training and qualifications for individuals authorized to conduct juvenile *or underage person* competency evaluations and provide restoration services to juveniles *or underage persons* pursuant to this article. The Commissioner shall also provide all juvenile courts with a list of guidelines for the court to use in the determination of qualifying individuals as experts in matters relating to juvenile *or underage person* competency and restoration.

B. The evaluation shall be performed on an outpatient basis at a community services board or behavioral health authority, juvenile detention home, or juvenile justice facility unless the court specifically finds that (i) the results of the outpatient competency evaluation indicate that hospitalization of the juvenile *or underage person* for evaluation of competency is necessary or (ii) the juvenile *or underage person* is currently hospitalized in a psychiatric hospital. If one of these findings is made, the court, under authority of this subsection, may order the juvenile *or underage person* sent to a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for the evaluation of juveniles *or underage persons* against whom a delinquency petition has been filed.

C. The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) a copy of the warrant or petition; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the juvenile *or underage person*, and the judge ordering the evaluation; and (iii) information about the alleged offense. The court shall require the attorney for the juvenile *or underage person* to provide to the evaluator only the psychiatric records and other information that is deemed relevant to the evaluation of competency. The moving party shall provide the evaluator a summary of the reasons for the evaluation request. All information required by this subsection shall be provided to the evaluator within 96 hours of the issuance of the court order requiring the evaluation and when applicable, shall be submitted prior to admission to the facility providing the inpatient evaluation. If the 96-hour period expires on a Saturday, Sunday, or other legal holiday, the 96 hours shall be extended to the next day ~~which~~ that is not a Saturday, Sunday, or legal holiday. The appointed evaluator or the director of the community services board, behavioral health authority, or hospital shall acknowledge receipt of the court order to the clerk of the court on a form developed by the Office of the Executive Secretary of the Supreme Court of Virginia as soon as practicable but no later than the close of business on the next business day following receipt of the court order. If the appointed evaluator or the director of the community services board, behavioral health authority, hospital, or private evaluator is unable to conduct the evaluation, he shall inform the court on the acknowledgement form.

D. If the juvenile *or underage person* is hospitalized under the provisions of subsection B, the juvenile *or underage person* shall be hospitalized for such time as the director of the hospital deems necessary to perform an adequate evaluation of the juvenile's *or underage person's* competency, but not to exceed 10 days from the date of admission to the hospital. All evaluations shall be completed and the report filed with the court within 14 days of receipt by the evaluator of all information required under subsection C.

E. Upon completion of the evaluation, the evaluator shall promptly and in no event exceeding 14

days after receipt of all required information submit the report in writing to the court and the attorneys of record concerning (i) the juvenile's *or underage person's* capacity to understand the proceedings against him; (ii) his ability to assist his attorney; and (iii) his need for services in the event he is found incompetent, including a description of the suggested necessary services and least restrictive setting to assist the juvenile in restoration to competency. No statements of the juvenile *or underage person* relating to the alleged offense shall be included in the report.

F. After receiving the report described in subsection E, the court shall promptly determine whether the juvenile *or underage person* is competent to stand trial for adjudication or disposition. A hearing on the juvenile's *or underage person's* competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the juvenile *or underage person* or when required under *subsection B of § 16.1-357 B*. If a hearing is held, the party alleging that the juvenile *or underage person* is incompetent shall bear the burden of proving by a preponderance of the evidence the juvenile's *or underage person's* incompetency. The juvenile *or underage person* shall have the right to notice of the hearing and the right to personally participate in and introduce evidence at the hearing.

If the juvenile *or underage person* is otherwise able to understand the charges against him and assist in his defense, a finding of incompetency shall not be made based solely on any or all of the following: (i) the juvenile's *or underage person's* age or developmental factors, (ii) the juvenile's *or underage person's* claim to be unable to remember the time period surrounding the alleged offense, or (iii) the fact that the juvenile *or underage person* is under the influence of medication.

**§ 16.1-357. Disposition when juvenile or underage person found incompetent.**

A. Upon finding pursuant to subsection F of § 16.1-356 that the juvenile *or underage person* is incompetent, the court shall order that the juvenile receive services to restore his competency in either a nonsecure community setting or a secure facility as defined in § 16.1-228. A copy of the order shall be forwarded to the Commissioner of Behavioral Health and Developmental Services, who shall arrange for the provision of restoration services in a manner consistent with the order. Any report submitted pursuant to subsection E of § 16.1-356 shall be made available to the agent providing restoration.

B. If the court finds the juvenile *or underage person* incompetent but restorable to competency in the foreseeable future, it shall order restoration services for up to three months. At the end of three months from the date restoration is ordered under subsection A ~~of this section~~, if the juvenile *or underage person* remains incompetent in the opinion of the agent providing restoration, the agent shall so notify the court and make recommendations concerning disposition of the juvenile *or underage person*. The court shall hold a hearing according to the procedures specified in subsection F of § 16.1-356 and, if it finds the juvenile *or underage person* unrestorably incompetent, shall order one of the dispositions pursuant to § 16.1-358. If the court finds the juvenile *or underage person* incompetent but restorable to competency, it may order continued restoration services for additional three-month periods, provided a hearing pursuant to subsection F of § 16.1-356 is held at the completion of each such period and the juvenile *or underage person* continues to be incompetent but restorable to competency in the foreseeable future.

C. If, at any time after the juvenile is ordered to undergo services under subsection A ~~of this section~~, the agent providing restoration believes the juvenile's competency is restored, the agent shall immediately send a report to the court as prescribed in subsection E of § 16.1-356. The court shall make a ruling on the juvenile's *or underage person's* competency according to the procedures specified in subsection F of § 16.1-356.

**§ 16.1-358. Disposition of the unrestorably incompetent juvenile or underage person.**

If, at any time after the juvenile *or underage person* is ordered to undergo services pursuant to subsection A of § 16.1-357, the agent providing restoration concludes that the juvenile *or underage person* is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the agent's opinion, the juvenile *or underage person* should be (i) committed pursuant to Article 16 (§ 16.1-335 et seq.) ~~of this chapter~~ or, if the juvenile has reached the age of ~~eighteen~~ 18 years at the time of the competency determination, pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, (ii) certified pursuant to § 37.2-806, (iii) provided other services by the court, or (iv) released. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection F of § 16.1-356. If the court finds that the juvenile *or underage person* is incompetent and is likely to remain so for the foreseeable future, it shall order that the juvenile *or underage person* (i) be committed pursuant to Article 16 (§ 16.1-335 et seq.) ~~of this chapter~~ or, if the juvenile has reached the age of ~~eighteen~~ 18 years at the time of the competency determination, pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, (ii) be certified pursuant to § 37.2-806, (iii) have a child in need of services petition filed on his behalf pursuant to § 16.1-260 D, or (iv) be released. If the court finds the juvenile *or underage person* incompetent but restorable to competency in the foreseeable future, it may order restoration services continued until three months have elapsed from the date of the provision of restoration ordered under subsection A of § 16.1-357.

If not dismissed without prejudice at an earlier time, charges against an unrestorably incompetent juvenile shall be dismissed in compliance with the time frames as follows: in the case of a charge ~~which that~~ would be a misdemeanor, one year from the date of the juvenile's *or underage person's* arrest for such charge; and in the case of a charge ~~which that~~ would be a felony, three years from the date of the juvenile's *or underage person's* arrest for such charges.

**§ 16.1-359. Litigating certain issues when the juvenile or underage person is incompetent.**

A finding of incompetency does not preclude the adjudication, at any time before trial, of a motion objecting to the sufficiency of the petition, nor does it preclude the adjudication of similar legal objections ~~which that~~, in the court's opinion, may be undertaken without the personal participation of the juvenile *or underage person*.

**§ 16.1-360. Disclosure by juvenile or underage person during evaluation or restoration; use at guilt phase of trial adjudication or disposition hearing.**

No statement or disclosure by the juvenile *or underage person* concerning the alleged offense made during a competency evaluation ordered pursuant to § 16.1-356, or services ordered pursuant to § 16.1-357 may be used against the juvenile *or underage person* at the adjudication or disposition hearings as evidence or as a basis for such evidence.

**§ 66-3. Powers of the Director.**

A. The Director of the Department shall have the following general powers:

1. To employ such personnel as may be required to carry out the purposes of this title.  
2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers under this title, including, but not limited to, contracts and agreements with the United States, other states, and agencies and governmental subdivisions of the Commonwealth.

3. With the prior approval of the Governor, to enter into agreements with a public or private entity to operate a work program for children *and underage persons* committed to the Department.

4. With the prior approval of the Governor, to acquire real property, by purchase or gift, needed for new or existing state juvenile correctional facilities and for administrative and other facilities necessary to the operations of the Department, pursuant to regulations promulgated by the Board to ensure adequate public notice and local hearing.

5. To establish and maintain schools of the appropriate grades, levels, and types in the institutions for persons committed to juvenile correctional centers.

6. To enter into such agreements with private entities, nonprofit civic organizations, school divisions, and public and private two-year and four-year institutions of higher education as it may deem necessary to provide age-appropriate educational programs and training, including career and technical education; career development opportunities; public service projects; restricted Internet access to online courses of institutions of higher education and approved or accredited online secondary education or adult education and literacy programs leading to a diploma or achieving a passing score on a high school equivalency examination approved by the Board of Education; access to postsecondary education that includes college credit, certification through an accredited vocational training program, or other accredited continuing education program using videoconferencing technology; and other learning experiences in the furtherance of its duties and responsibilities under this chapter for persons committed to the institutions comprising the Department.

7. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of detention homes not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General.

8. To do all acts necessary or convenient to carry out the purposes of this title.

B. The Director shall comply with and require all school facilities within the Department to comply with applicable regulations and statutes, both state and federal.

**§ 66-3.2. Additional duties of the Director.**

A. The Director shall coordinate with the Department of Corrections the development and submission of requests for compensation from the United States Department of Justice State Criminal Alien Assistance Program for costs associated with incarcerating undocumented aliens.

B. The Director shall forward to the Commonwealth's Attorneys' Services Council, updated on a

2765 monthly basis, a list of all juveniles, 14 years of age or older, *and underage persons* that (i) have been  
 2766 committed to the Department, (ii) have been found guilty of a felony offense defined as a predicate  
 2767 criminal act under § 18.2-46.1, or have been adjudicated delinquent on the basis of an act that would be  
 2768 a felony and a predicate criminal act under § 18.2-46.1 if committed by an adult *21 years of age or*  
 2769 *older*, and (iii) have been identified as belonging to a criminal gang. The list shall contain identifying  
 2770 information for each gang member, as well as the offense, court, and date of conviction or adjudication.

2771 **§ 66-10. Powers and duties of Board.**

2772 The Board shall have the following powers and duties:

2773 1. To establish and monitor policies for the programs and facilities for which the Department is  
 2774 responsible under this law.

2775 2. To ensure the development of a long-range youth services policy.

2776 3. To monitor the activities of the Department and its effectiveness in implementing the policies  
 2777 developed by the Board.

2778 4. To advise the Governor and Director on matters relating to youth services.

2779 5. To promulgate such regulations as may be necessary to carry out the provisions of this title and  
 2780 other laws of the Commonwealth.

2781 6. To ensure the development of programs to educate citizens and elicit public support for the  
 2782 activities of the Department.

2783 7. To establish length-of-stay guidelines for juveniles *and underage persons* indeterminately  
 2784 committed to the Department and to make such guidelines available for public comment.

2785 8. To adopt all necessary regulations for the management and operation of the schools in the  
 2786 Department except that the regulations adopted hereunder shall not conflict with regulations relating to  
 2787 security of the institutions in which the juveniles *and underage persons* are committed.

2788 9. To establish compulsory minimum entry-level, in-service, and advanced training standards, as well  
 2789 as the time required for completion of such training, for persons employed as juvenile correctional  
 2790 officers employed at a juvenile correctional facility as defined in § 66-25.3. For such juvenile  
 2791 correctional officers who may have contact with pregnant inmates, such standards shall include training  
 2792 on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the  
 2793 impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the  
 2794 impact of body cavity searches on pregnant inmates.

2795 **§ 66-12. Definitions.**

2796 ~~Unless a different meaning clearly appears from the context,~~ as ~~As~~ used in this title, ~~unless the~~  
 2797 ~~context requires a different meaning:~~

2798 "Board" or "State Board" means the Board of Juvenile Justice;

2799 "Child" or "*juvenile*" means any natural person under ~~eighteen~~ 18 years of age;

2800 "Department" means the Department of Juvenile Justice;

2801 "Director" means the Director of Juvenile Justice.

2802 "*Underage person*" means any person 18 years of age or older but younger than 21 years of age.

2803 **§ 66-13. Authority of Department as to juveniles committed to it; establishment of facilities;**  
 2804 **arrangements for temporary care.**

2805 A. The Department is authorized and empowered to receive juveniles *and underage persons*  
 2806 committed to it by the courts of the Commonwealth. The Department shall establish, staff, and maintain  
 2807 facilities for the rehabilitation, education, training, and confinement of such juveniles *and underage*  
 2808 *persons*. The Department may make arrangements with satisfactory persons, institutions, or agencies, or  
 2809 with cities or counties maintaining places of detention for juveniles *and underage persons*, for the  
 2810 temporary care of such juveniles *and underage persons*.

2811 B. The Department may by mutual agreement with a locality or localities and, pursuant to standards  
 2812 promulgated pursuant to § 16.1-309.9, establish detention homes for use by a locality or localities for  
 2813 pre-trial and post-dispositional detention pursuant to §§ 16.1-248.1 and 16.1-284.1. The Department may  
 2814 collect by mutual agreement with a locality or localities and from any locality of ~~this the~~  
 2815 Commonwealth from which a juvenile *or underage person* is placed in such a detention home, the  
 2816 reasonable cost of maintaining such juvenile *or underage person* in such facility and a portion of the  
 2817 cost of construction of such facility. Such agreements shall be subject to approval by the General  
 2818 Assembly in the general appropriation act.

2819 C. The Department shall collect data pertaining to the demographic characteristics of juveniles *and*  
 2820 *underage persons* incarcerated in state juvenile correctional institutions, including, ~~but not limited to,~~ the  
 2821 race or ethnicity, age, and gender of such persons, and the types of and extent to which health-related  
 2822 problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected,  
 2823 tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each  
 2824 regular session of the General Assembly thereafter.

2825 **§ 66-15. Schedules of per diem cost of maintenance in detention homes; reimbursements of**  
 2826 **cities and counties.**

The Department shall establish schedules setting forth the per diem cost to each locality for maintaining a child *or underage person* in a detention home. In accordance with the schedule, the Department, in addition to all other reimbursements on account of such detention homes, shall reimburse each city or county for the cost of maintaining in such homes any children *or underage persons* committed to the Department. The Department shall review annually and adjust, if justified, the per diem it pays to localities for the care of state wards.

**§ 66-18. Examination and placing of such children and underage persons.**

The Department shall make a careful physical and mental examination of every child *or underage person* committed to it by the courts, investigate the personal and family history of the child *or underage person* and his environment, and place such children *and underage persons* at such facilities as are available. Any children *or underage persons* committed to the Department and afterwards found to be eligible for commitment by proper proceedings to any state hospital or admission to a training center for individuals with intellectual disability shall take precedence as to admission over all others and shall in all cases be received into the state hospital or training center within 45 days.

**§ 66-19. Behavioral services unit; director and personnel; examination of children and underage persons.**

To assist in the performance of the duties imposed by § 66-18, the Department shall maintain a behavioral services unit and employ as director thereof a clinically competent person. The Department shall also employ such other medical, technical, and clinical personnel skilled in the diagnosis and treatment of physical diseases or mental illnesses of children *and underage persons* as may be desirable for the operation of such unit. The personnel of the unit, when visiting the various facilities maintained by the Department for the care of children *and underage persons* committed to the Department, shall conduct a thorough examination of each child *or underage person* at such facilities not theretofore examined by the unit, and other children *or underage persons* at the facilities for whom such examination is indicated. Such examination shall be for the purpose of determining, diagnosing, and treating physical and learning ailments or impairments and mental illnesses with a view to improving the general functioning of such children and hastening their rehabilitation.

**§ 66-20. Observation and treatment of children and underage persons with mental illness or developmental disabilities.**

After commitment of any child *or underage person* to the Department, if the Department finds, as a result of psychiatric examinations and case study, that such child *or underage person* has mental illness or a developmental disability, it shall be the duty of the Department to obtain treatment for the child's *or underage person's* mental condition. If the Department determines that transfer to a state hospital, training center, or other appropriate treatment facility is required to further diagnose or treat the child's *or underage person's* mental condition, the proceedings shall be in accordance with the provisions of § 37.2-806 or §§ 16.1-341 through 16.1-345, except that provisions requiring consent of the child's parent or guardian for treatment shall not apply in such cases. No child *or underage person* transferred to a state hospital pursuant to this section or the provisions of Title 37.2 shall, however, be held or cared for in any maximum security unit where adults determined to be criminally insane reside and such child *or underage person* shall be kept separate and apart from such adults.

**§ 66-21. Superintendents and agents of facilities to have powers of sheriff.**

The superintendents of the facilities established by the Department pursuant to § 66-13 and their authorized agents shall have the powers of a sheriff for the purpose of preserving order at their facilities and for the conveyance of children *and underage persons* committed to their care to and from such facilities.

**§ 66-22.1. Establishment of stores in juvenile correctional facilities.**

The Director is hereby authorized to provide for the establishment and operation of stores or commissaries in state juvenile correctional facilities to deal in such articles as he deems proper. The profits from the operation of such stores shall be used for educational, recreational, or other purposes beneficial to the juveniles *and underage persons* committed to the Department as may be prescribed by the Director.

**§ 66-25.1. Work programs.**

A. The Director or his designee may enter into an agreement with a public or private entity for the operation of a work program for juveniles *and underage persons* committed to the Department.

B. The primary purpose of such work program shall be the training of such juveniles *and underage persons*, not the production of goods or the rendering of service by juveniles committed to the Department. Such work programs also shall not interfere with or impact a juvenile's *or an underage person's* education program where the goal is achieving a high school diploma or its equivalent. The Board shall promulgate regulations governing the form and review process for proposed agreements.

C. Articles produced or manufactured and services provided by juveniles *or underage persons* participating in such a work program may be purchased by any county, by any district of any county,



city, or town and by any nonprofit organization, including volunteer emergency medical services agencies, fire departments, sheltered workshops, and community service organizations. Such articles and services may also be bought, sold, or acquired by exchange on the open market through the participating public or private entity.

D. Revenues received from the sale of articles, as provided in subsection C, shall be deposited into a special fund established in the state treasury. Such funds shall be expended to support work programs for juveniles *and underage persons* committed to the Department.

**§ 66-25.1:1. Juvenile and underage person academic and career training.**

The Director or his designee shall assess, in accordance with criteria established pursuant to § 66-25.1:3, whether a juvenile *or an underage person* committed to the Department is an appropriate candidate for participation in a work release program, apprenticeship program, job enterprise program, or any other work experience opportunity located at or through the juvenile correctional center where the juvenile *or underage person* is placed.

**§ 66-25.1:2. Career training and technical education programs.**

A. With such funds as are made available for this purpose, the Department shall provide juveniles *and underage persons* committed to the Department with opportunities to work and to participate in career training or technical education programs operated by the Department.

B. The Department may develop appropriate interagency linkages with state and local agencies, public and private institutions of education and of higher education, labor and industry councils, the business community, rehabilitative services providers, and employment and guidance services to assist juveniles *and underage persons* in acquiring necessary work habits, developing marketable skills, and identifying career goals through a broad range of career opportunities and mentoring and apprenticeship programs. In providing career-related programs, training, and services, the Department may consult and cooperate with the Virginia Employment Commission and the Department of Labor and Industry. Work training opportunities may include business, industrial, agricultural, highway maintenance and construction, and work release programs as hereafter specified in this article. In addition, juveniles *and underage persons* may be employed to improve, repair, work on, or cultivate public property or buildings.

**§ 66-25.1:3. Extending limits of confinement of state wards for work and educational programs; disposition of wages; penalties for violations.**

A. The Director is authorized to establish work release programs, subject to such rules and regulations as the Board may prescribe, whereby (i) a juvenile *or underage person* who is proficient in any trade or occupation and who meets the work release criteria established by the Director, may be approved for employment by private individuals, corporations, or state agencies at places of business, or (ii) a juvenile *or an underage person* who the Director is satisfied meets the work release criteria and is capable of receiving substantial benefit from educational and other related community activity programs that are not available within a juvenile correctional center may attend such programs outside of the juvenile correctional facility.

B. The Director may contract with the superintendent of a local detention facility or home for the temporary placement of a committed juvenile *or underage person* who is deemed appropriate for participation in the programs or services provided by or through a certified post-dispositional program in that local detention facility or home. A juvenile *or an underage person* who the Director is satisfied meets the work release criteria and is capable of receiving substantial benefit from educational programs, employment, or other related community activity programs available at or through the local detention facility or home is eligible for placement in such local detention facility or home.

C. The compensation for such employment shall be arranged by the Director and shall be the same as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The Director shall, in accordance with regulations promulgated by the Board, deduct from such wages, in the following order of priority, an amount to:

1. Meet the obligation of any judicial or administrative order to provide support, and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution, or costs as ordered by the court; and

3. Pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program.

The balance shall be credited to the juvenile's *or underage person's* account or sent to his family in an amount the juvenile *or underage person* chooses.

D. Any juvenile *or underage person* who has been placed in any of the programs authorized herein shall, while outside the juvenile correctional center or juvenile detention facility to which he is assigned, be deemed to be in custody whether or not he is under the supervision of a juvenile correctional officer. If the juvenile *or underage person*, without proper authority or without just cause, leaves the area in which he has been directed to work or to attend educational or community activity programs, or the vehicle or route involved in his traveling to or from such place or program, he may be found guilty of



2950 escape as provided for in § 18.2-477 as though he had left the secure facility as defined in § 16.1-228;  
2951 or, if there are mitigating circumstances or the culpability of the juvenile *or underage person* is minimal,  
2952 he may be found guilty of a Class 2 misdemeanor.

2953 E. The Director and any superintendent or other administrative head of any local detention facility  
2954 are authorized to enter into agreements whereby persons committed to the Department, whether such  
2955 persons are housed in a juvenile correctional center or a local detention facility, and who meet the  
2956 Department's standards for such release, may participate in local work release programs or in educational  
2957 or other rehabilitative programs operating pursuant to this section. Any person so placed shall be  
2958 governed by the rules and regulations applicable to local work release programs.

2959 F. In the event that the juvenile *or underage person* is committed to the Department as a serious  
2960 offender pursuant to § 16.1-285.1, the juvenile *or underage person* shall not be approved for placement  
2961 in a work release program located outside of the juvenile correctional facility without written approval  
2962 of the committing court.

2963 **2. That the provisions of this act shall apply prospectively and only to conduct or an offense that**  
2964 **occurs on or after January 1, 2025.**

2965 **3. That the provisions of this act shall become effective on January 1, 2025.**