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HOUSE BILL NO. 2044

Offered January 11, 2023

Prefiled January 10, 2023

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

Patron—Shin

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

§ 16.1-267. Compensation of appointed counsel.

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

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

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

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

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

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

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

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

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

INTRODUCED

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

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

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

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

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

82 C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under
83 the criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63,
84 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
85 minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of
86 § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the
87 Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.)
88 of Title 9.1.

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

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

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

99 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
100 **statement.**

101 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
102 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a
103 violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing
104 curfew violations, the court before final disposition thereof may require an investigation, which (i) shall
105 include a drug screening and (ii) may, and for the purposes of subdivision A 44 13 or 47 16 of
106 § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an
107 assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the
108 child and the facts and circumstances surrounding the violation of law. However, in the case of a
109 juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which
110 would be (a) a felony if committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or
111 Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a
112 Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo
113 a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence
114 problem, an assessment shall be completed by a certified substance abuse counselor as defined in
115 § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit
116 or by an individual employed by or currently under contract to such agencies and who is specifically
117 trained to conduct such assessments under the supervision of such counselor.

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

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

122 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

123 The juvenile court or the circuit court may cause any juvenile within its jurisdiction under the
 124 provisions of this law to be physically examined and treated by a physician or to be examined and
 125 treated at a local mental health center. If no such appropriate facility is available locally, the court may
 126 order the juvenile to be examined and treated by any physician or psychiatrist or examined by a clinical
 127 psychologist. The Commissioner of Behavioral Health and Developmental Services shall provide for
 128 distribution a list of appropriate mental health centers available throughout the Commonwealth. Upon the
 129 written recommendation of the person examining the juvenile that an adequate evaluation of the
 130 juvenile's treatment needs can only be performed in an inpatient hospital setting, the court shall have the
 131 power to send any such juvenile to a state mental hospital for not more than 10 days for the purpose of
 132 obtaining a recommendation for the treatment of the juvenile. No juvenile sent to a state mental hospital
 133 pursuant to this provision shall be held or cared for in any maximum security unit where adults
 134 determined to be criminally insane reside; the juvenile shall be kept separate and apart from such adults.
 135 However, the Commissioner of Behavioral Health and Developmental Services may place a juvenile
 136 who has been certified to the circuit court for trial as an adult pursuant to § 16.1-269.6 or 16.1-270 or
 137 who has been convicted as an adult of a felony in the circuit court in a unit appropriate for the care and
 138 treatment of persons under a criminal charge when, in his discretion, such placement is necessary to
 139 protect the security or safety of other patients, staff or the public.

140 Whenever the parent or other person responsible for the care and support of a juvenile is determined
 141 by the court to be financially unable to pay the costs of such examination as ordered by the juvenile
 142 court or the circuit court, such costs may be paid according to procedures and rates adopted by the
 143 Department from funds appropriated in the general appropriation act for the Department.

144 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found to
 145 be delinquent for an offense that is eligible for commitment pursuant to subdivision A 14 13 of
 146 § 16.1-278.8 or § 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice
 147 for a period of time not to exceed 30 days for diagnostic assessment services after the adjudicatory
 148 hearing and prior to final disposition of his or her case. Prior to such a placement, the Department shall
 149 determine that the personnel, services and space are available in the appropriate correctional facility for
 150 the care, supervision and study of such juvenile and that the juvenile's case is appropriate for referral for
 151 diagnostic services.

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

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

162 **§ 16.1-278.7. Commitment to Department of Juvenile Justice.**

163 Only a juvenile who is (i) adjudicated delinquent of an act enumerated in subsection B or C of
 164 § 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
 165 Department of Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to
 166 subdivision A 14 13 or A 17 16 of § 16.1-278.8, at the time a court commits a child to the Department
 167 of Juvenile Justice the court shall order an investigation pursuant to § 16.1-273 to be completed within
 168 15 days. No juvenile court or circuit court shall order the commitment of any child jointly to the
 169 Department of Juvenile Justice and to a local board of social services or transfer the custody of a child
 170 jointly to a court service unit of a juvenile court and to a local board of social services. Any person
 171 sentenced and committed to an active term of incarceration in the Department of Corrections who is, at
 172 the time of such sentencing, in the custody of the Department of Juvenile Justice, upon pronouncement
 173 of sentence, shall be immediately transferred to the Department of Corrections.

174 **§ 16.1-278.8. Delinquent juveniles.**

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

- 178 1. Enter an order pursuant to the provisions of § 16.1-278;
- 179 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the
 180 court may order with respect to the juvenile and his parent;
- 181 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 ~~12.~~ 12. Transfer legal custody to any of the following:

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

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

250 c. The local board of social services of the county or city in which the court has jurisdiction or, at
251 the discretion of the court, to the local board of the county or city in which the juvenile has residence if
252 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for
253 care and custody, provided that it has been given reasonable notice of the pendency of the case and an
254 opportunity to be heard. However, in an emergency in the county or city in which the court has
255 jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed
256 14 days without prior notice or an opportunity to be heard if the judge entering the placement order
257 describes the emergency and the need for such temporary placement in the order. Nothing in this
258 subdivision shall prohibit the commitment of a juvenile to any local board of social services in the
259 Commonwealth when such local board consents to the commitment. The board to which the juvenile is
260 committed shall have the final authority to determine the appropriate placement for the juvenile. Nothing
261 herein shall limit the authority of the court to review the child's status in foster care in accordance with
262 subsection G of § 16.1-281 or to review the foster care plan through a petition filed pursuant to
263 subsection A of § 16.1-282. Any order authorizing removal from the home and transferring legal custody
264 of a juvenile to a local board of social services as provided in this subdivision shall be entered only
265 upon a finding by the court that reasonable efforts have been made to prevent removal and that
266 continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so
267 state;

268 ~~14.~~ 13. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
269 and his attorney or other legal representative, upon consideration of the results of an investigation
270 completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if
271 (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in
272 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
273 offense that would be a felony if committed by an adult, (b) an offense that would be a Class 1
274 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent
275 based on an offense that would be a felony if committed by an adult, or (c) an offense that would be a
276 Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated
277 delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult,
278 and each such offense was not a part of a common act, transaction or scheme;

279 ~~15.~~ 14. Impose the penalty authorized by § 16.1-284;

280 ~~16.~~ 15. Impose the penalty authorized by § 16.1-284.1;

281 ~~17.~~ 16. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
282 and his attorney or other legal representative, upon consideration of the results of an investigation
283 completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

284 ~~18.~~ 17. Impose the penalty authorized by § 16.1-278.9; or

285 ~~19.~~ 18. Require the juvenile to participate in a gang-activity prevention program including, but not
286 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to
287 § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations:
288 § 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,
289 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted
290 pursuant to § 15.2-1812.2.

291 B. *Additionally, after entering a judgment of guilt or delinquency but prior to the imposition of any*
292 *penalty, the court shall determine the applicable fees and costs including attorney fees, pursuant to*
293 *§ 16.1-267 or other criteria as appropriate, to be assessed against the juvenile's parents. While*
294 *determine if such juvenile's parents are financially able to pay the fees and costs in whole or in part*
295 *and refuse to do so, the court shall give the child, or the child's attorney, and the parents, an*
296 *opportunity to be heard. If the juvenile has successfully met the conditions required by either subdivision*
297 *A 4 or A 5 of § 16.1-278.8, no costs or fees shall be imposed. Notwithstanding any other provision, if*
298 *such parents are the victim of the offense, a court shall not assess attorney fees against such parents.*

299 C. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
300 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
301 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51,
302 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,
303 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to
304 § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project

305 under such conditions as the court prescribes.

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

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

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

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

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

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

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

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

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

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

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

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

367 communication system used for an appearance shall meet the standards as set forth in subsection B of §
368 19.2-3.1.

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

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

377 **§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.**

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

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

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

395 **§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

396 A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents
397 or (ii) a juvenile is placed in temporary shelter care regardless of whether or not legal custody is
398 retained by his parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and
399 20-108.2, or the Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title
400 63.2, shall order the parents to pay support to the Department of Social Services. If the parents fail or
401 refuse to pay such support, the court may proceed against them for contempt, or the order may be filed
402 and shall have the effect of a civil judgment. The provisions of this subsection shall not apply to a
403 juvenile who is committed to the Department pursuant to subdivision A 14 13 or A 17 16 of
404 § 16.1-278.8.

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

407 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the
408 parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and
409 63.2-1910.

410 **§ 16.1-290.1. Payment for court-ordered counseling, treatment, or programs.**

411 The court shall order the participant in any treatment, counseling, or other program for the
412 rehabilitation of a minor child or his family to pay as much of the applicable fee for participation as
413 such person is able to pay. *The ordering of such payment shall be in accordance with subsection B of*
414 *§ 16.1-278.8.*

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

416 **§ 16.1-292. Violation of court order by any person.**

417 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through
418 16.1-278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of
419 § 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the
420 order of the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with,
421 (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by
422 both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its
423 power to punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for
424 contempt after notice and an opportunity for a hearing on the contempt except that confinement in the
425 case of a juvenile shall be in a secure facility for juveniles rather than in jail and shall not exceed a
426 period of seven days for each offense. However, if the person violating the order was a juvenile at the
427 time of the original act and is 18 years of age or older when the court enters a disposition for violation

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

437 B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order
438 of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and
439 sentence such party to confinement in a jail, workhouse, city farm, or work squad as provided in
440 §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no
441 event, however, shall such sentence be imposed for a period of more than 12 months. The sum or sums
442 as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance
443 of the spouse or the child or children for whose benefit such order or decree provided.

444 C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may
445 take with respect to a child violating the terms and conditions of an order to those which the court
446 could have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through
447 16.1-278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive
448 the court of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456
449 subject to the provisions of subsection A or (ii) punish a child for contempt for violation of a
450 dispositional order in a delinquency proceeding after notice and an opportunity for a hearing regarding
451 such contempt, including acts of disobedience of the court's dispositional order which are committed
452 outside the presence of the court.

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

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

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

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

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

483 **§ 16.1-293.1. Mental health services transition plan.**

484 A. The Board of Juvenile Justice, after consultation with the Department of Behavioral Health and
485 Developmental Services, shall promulgate regulations for the planning and provision of post-release
486 services for persons committed to the Department of Juvenile Justice pursuant to subdivision A 14 13 of
487 § 16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of § 16.1-284.1
488 and identified as having a recognized mental health, substance abuse, or other therapeutic treatment
489 need. The plan shall be in writing and completed prior to the person's release. The purpose of the plan

490 shall be to ensure continuity of necessary treatment and services.

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

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

500 **§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

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

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

509 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision A
 510 8, 9, ~~10~~, ~~12~~, ~~11~~, ~~13~~, or 14, ~~or 15~~ of § 16.1-278.8.

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

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

513 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a
 514 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
 515 disposing of a motion to reconsider relating to participation in continuing programs pursuant to
 516 § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1, including
 517 a protective order required by § 16.1-253.2, or a protective order entered in conjunction with a
 518 disposition pursuant to § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, 16.1-278.8, or 16.1-278.14, (iv)
 519 a protective order issued pursuant to § 19.2-152.10, including a protective order required by § 18.2-60.4,
 520 or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by
 521 the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme
 522 Court.

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

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

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

535 **§ 16.1-309.1. Exception as to confidentiality.**

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

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

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

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

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

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

589 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a
590 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
591 if committed by an adult, the court may order that such victim be informed of the charge or charges
592 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"
593 shall be defined as in § 19.2-11.01.

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

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

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

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

618 **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition;**
 619 **disclosure of information; penalty.**

620 A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i)
 621 adjudicated delinquent or convicted of murder or attempted murder, armed robbery, any felony sexual
 622 assault or malicious wounding, or a felony violation of a gang-related crime pursuant to Article 2.1
 623 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, or (ii) convicted at least three times for offenses which
 624 would be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or
 625 adjudications shall include only those for offenses occurring after July 1, 1993. However, any Serious or
 626 Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be
 627 deemed to have been established pursuant to this article and, notwithstanding the limitations of this
 628 subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile
 629 offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed
 630 to state care pursuant to subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1 may continue to be
 631 supervised by SHOCAP until their twenty-first birthday.

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

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

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

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

663 The provisions of this article authorizing information sharing between and among SHOCAP
 664 committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11
 665 of this title governing dissemination of court and law-enforcement records concerning juveniles, (ii)
 666 Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title
 667 37.2 and any regulations enacted pursuant thereto governing access to juvenile mental health records,
 668 and (iv) Title 63.2 and any regulations enacted pursuant thereto governing access to records concerning
 669 treatments or services provided to a juvenile.

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

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

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

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

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

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

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

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

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

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

736 \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a
 737 nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco
 738 product other than a bidi.

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

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

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

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

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

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

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

770 I. As used in this section:

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

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

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

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

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

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

795 **§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of**
 796 **attorneys for the Commonwealth; duties of Department of Taxation.**

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

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

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

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

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

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

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

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

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

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

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

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

874 **§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by**
875 **electronic means in certain cases; records in office of Department; inspection; clerk's fee for**
876 **reports.**

877 A. In the event (i) a person is convicted of a charge described in subdivision A 1 or 2 of § 46.2-382
878 or § 46.2-382.1, (ii) a person forfeits bail or collateral or other deposit to secure the defendant's
879 appearance on the charges, unless the conviction has been set aside or the forfeiture vacated, (iii) a court
880 assigns a defendant to a driver education program or alcohol treatment or rehabilitation program, or both
881 such programs, as authorized by § 18.2-271.1, (iv) compliance with the court's probation order is
882 accepted by the court in lieu of a conviction under § 18.2-266 or the requirements specified in
883 § 18.2-271 as provided in § 18.2-271.1, or (v) there is rendered a judgment for damages against a person
884 as described in § 46.2-382, every district court or clerk of a circuit court shall forward an abstract of the
885 record to the Commissioner within 18 days after such conviction, forfeiture, assignment, or acceptance,
886 and in the case of civil judgments, on the request of the judgment creditor or his attorney, within 30
887 days after judgment has become final. No abstract of the record in a district court shall be forwarded to
888 the Commissioner unless the period allowed for an appeal has elapsed and no appeal has been perfected.
889 On or after July 1, 2013, in the event that a conviction or adjudication has been nullified by separate
890 order of the court, the clerk shall forward to the Commissioner an abstract of that record.

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

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

903 D. The Code section and description of an offense referenced in an abstract for any juvenile
904 adjudication obtained from a district court or clerk of circuit court pursuant to subdivision A 9 8 of
905 § 16.1-278.8, § 16.1-278.9, clause (iii) of subdivision A 1 of § 46.2-382, or any other provision of law
906 that does not involve an offense referenced in subsection A or an offense involving the operation of a
907 motor vehicle shall be available only to the person himself, his parent or guardian, law-enforcement
908 officers, attorneys for the Commonwealth, and courts.

909 **§ 46.2-808.2. Violations committed within highway safety corridor; report on benefits.**

910 Notwithstanding any other provision of law, the fine for any moving violation of any provision of
911 this chapter while operating a motor vehicle in a designated highway safety corridor pursuant to
912 § 33.2-253 shall be no more than \$500 for any violation that is a traffic infraction and not less than
913 \$200 for any violation that is a criminal offense *unless such violation was committed by a juvenile.*
914 *When a juvenile has been found to be in violation of any provision of this chapter, the court may*
915 *exercise discretion in the imposition or amount of any fine.*

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

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

924 **§ 63.2-100. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1000 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances
 1001 that he is not able to provide for himself or is not being provided services necessary to maintain his
 1002 physical and mental health and that the failure to receive such necessary services impairs or threatens to
 1003 impair his well-being. However, no adult shall be considered neglected solely on the basis that such
 1004 adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical
 1005 care, provided that such treatment or care is performed in good faith and in accordance with the
 1006 religious practices of the adult and there is a written or oral expression of consent by that adult.

1007 "Adult protective services" means services provided by the local department that are necessary to
 1008 protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

1009 "Assisted living care" means a level of service provided by an assisted living facility for adults who
 1010 may have physical or mental impairments and require at least a moderate level of assistance with
 1011 activities of daily living.

1012 "Assisted living facility" means any congregate residential setting that provides or coordinates
 1013 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
 1014 the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for
 1015 in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board
 1016 of Health or the Department of Behavioral Health and Developmental Services, but including any
 1017 portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or
 1018 maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility
 1019 serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational
 1020 program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as
 1021 a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the
 1022 facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled
 1023 that provides no more than basic coordination of care services and is funded by the U.S. Department of
 1024 Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing
 1025 Development Authority. Included in this definition are any two or more places, establishments or
 1026 institutions owned or operated by a single entity and providing maintenance or care to a combined total
 1027 of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general
 1028 supervision and oversight of the physical and mental well-being of an aged, infirm or disabled
 1029 individual.

1030 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who
 1031 receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive
 1032 these benefits except for excess income.

1033 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

1034 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
 1035 parent(s) by previous adoption.

1036 "Board" means the State Board of Social Services.

1037 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
 1038 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
 1039 and meets the eligibility criteria set forth in § 63.2-919.

1040 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
 1041 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
 1042 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists

1043 parents with the process of delegating parental and legal custodial powers of their children pursuant to
1044 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
1045 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title
1046 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
1047 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.
1048 "Child-protective services" means the identification, receipt and immediate response to complaints
1049 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes
1050 assessment, and arranging for and providing necessary protective and rehabilitative services for a child
1051 and his family when the child has been found to have been abused or neglected or is at risk of being
1052 abused or neglected.
1053 "Child support services" means any civil, criminal or administrative action taken by the Division of
1054 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or
1055 collect child support, or child and spousal support.
1056 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent
1057 foster home.
1058 "Children's residential facility" means any facility, child-caring institution, or group home that is
1059 maintained for the purpose of receiving children separated from their parents or guardians for full-time
1060 care, maintenance, protection and guidance, or for the purpose of providing independent living services
1061 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.
1062 Children's residential facility shall not include:
1063 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,
1064 return annually to the homes of their parents or guardians for not less than two months of summer
1065 vacation;
1066 2. An establishment required to be licensed as a summer camp by § 35.1-18; and
1067 3. A licensed or accredited hospital legally maintained as such.
1068 "Commissioner" means the Commissioner of the Department, his designee or authorized
1069 representative.
1070 "Department" means the State Department of Social Services.
1071 "Department of Health and Human Services" means the Department of Health and Human Services
1072 of the United States government or any department or agency thereof that may hereafter be designated
1073 as the agency to administer the Social Security Act, as amended.
1074 "Disposable income" means that part of the income due and payable of any individual remaining
1075 after the deduction of any amount required by law to be withheld.
1076 "Energy assistance" means benefits to assist low-income households with their home heating and
1077 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,
1078 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or
1079 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance
1080 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the
1081 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.
1082 "Family and permanency team" means the group of individuals assembled by the local department to
1083 assist with determining planning and placement options for a child, which shall include, as appropriate,
1084 all biological relatives and fictive kin of the child, as well as any professionals who have served as a
1085 resource to the child or his family, such as teachers, medical or mental health providers, and clergy
1086 members. In the case of a child who is 14 years of age or older, the family and permanency team shall
1087 also include any members of the child's case planning team that were selected by the child in
1088 accordance with subsection A of § 16.1-281.
1089 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42
1090 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in
1091 accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of
1092 whom they had been the foster parents.
1093 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
1094 established relationship with the child or his family.
1095 "Foster care placement" means placement of a child through (i) an agreement between the parents or
1096 guardians and the local board where legal custody remains with the parents or guardians or (ii) an
1097 entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care
1098 placement" does not include placement of a child in accordance with a power of attorney pursuant to
1099 Chapter 10 (§ 20-166 et seq.) of Title 20.
1100 "Foster home" means a residence approved by a child-placing agency or local board in which any
1101 child, other than a child by birth or adoption of such person or a child who is the subject of a power of
1102 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural
1103 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of
1104 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours

1105 without compensation, resides as a member of the household.

1106 "General relief" means money payments and other forms of relief made to those persons mentioned
1107 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with §
1108 63.2-401.

1109 "Independent foster home" means a private family home in which any child, other than a child by
1110 birth or adoption of such person, resides as a member of the household and has been placed therein
1111 independently of a child-placing agency except (i) a home in which are received only children related by
1112 birth or adoption of the person who maintains such home and children of personal friends of such
1113 person; (ii) a home in which is received a child or children committed under the provisions of
1114 subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 12 of § 16.1-278.8;
1115 and (iii) a home in which are received only children who are the subject of a properly executed power
1116 of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

1117 "Independent living" means a planned program of services designed to assist a child age 16 and over
1118 and persons who are former foster care children or were formerly committed to the Department of
1119 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

1120 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
1121 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
1122 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was
1123 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
1124 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
1125 parental supervision.

1126 "Independent living services" means services and activities provided to a child in foster care 14 years
1127 of age or older who was committed or entrusted to a local board of social services, child welfare
1128 agency, or private child-placing agency. "Independent living services" may also mean services and
1129 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
1130 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his
1131 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
1132 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was
1133 committed to the Department of Juvenile Justice immediately prior to placement in an independent
1134 living arrangement. Such services shall include counseling, education, housing, employment, and money
1135 management skills development, access to essential documents, and other appropriate services to help
1136 children or persons prepare for self-sufficiency.

1137 "Independent physician" means a physician who is chosen by the resident of the assisted living
1138 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an
1139 owner, officer, or employee or as an independent contractor with the residence.

1140 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster
1141 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other
1142 entity authorized to make such placements in accordance with the laws of the foreign country under
1143 which it operates.

1144 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
1145 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of
1146 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
1147 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
1148 action of any court.

1149 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

1150 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
1151 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
1152 acting as the child's foster parent.

1153 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
1154 between a child and an adult relative of the child who has formerly acted as the child's foster parent that
1155 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
1156 relative of the child of the authority necessary to ensure the protection, education, care and control, and
1157 custody of the child and the authority for decision making for the child.

1158 "Local board" means the local board of social services representing one or more counties or cities.

1159 "Local department" means the local department of social services of any county or city in this
1160 Commonwealth.

1161 "Local director" means the director or his designated representative of the local department of the
1162 city or county.

1163 "Merit system plan" means those regulations adopted by the Board in the development and operation
1164 of a system of personnel administration meeting requirements of the federal Office of Personnel
1165 Management.

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

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

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

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

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

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

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

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

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

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

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

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