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SENATE BILL NO. 481

Offered January 10, 2024

Prefiled January 9, 2024

A *BILL to amend and reenact §§ 4.1-305, 16.1-266, 16.1-267, 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.9, 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, 17.1-275.5, 18.2-246.13, 18.2-371.2, 19.2-159, 19.2-163, 19.2-163.4:1, 46.2-383, 46.2-808.2, 63.2-100, and 66-14 of the Code of Virginia, relating to abolition of juvenile fines and fees; criminal offenses.*

 Patron—Aird

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-305, 16.1-266, 16.1-267, 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.9, 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, 17.1-275.5, 18.2-246.13, 18.2-371.2, 19.2-159, 19.2-163, 19.2-163.4:1, 46.2-383, 46.2-808.2, 63.2-100, and 66-14 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; venue; exceptions; penalty; forfeiture; deferred proceedings; treatment and education programs and services.

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer or his agent when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section is guilty of a Class 1 misdemeanor, and upon conviction (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted license under the provisions of this subsection to be (a) monitored by an alcohol safety action program or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted license, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

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59 E. Any retail licensee who in good faith promptly notifies the Board or any state or local
60 law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity
61 from an administrative penalty for a violation of § 4.1-304.

62 F. When any adult who has not previously been convicted of underaged consumption, purchase or
63 possession of alcoholic beverages in Virginia or any other state or the United States is before the court,
64 the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify
65 a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the
66 consent of the accused, defer further proceedings and place him on probation subject to appropriate
67 conditions. Such conditions may include the imposition of the license suspension and restricted license
68 provisions in subsection C. However, in all such deferred proceedings, the court shall require the
69 accused to enter a treatment or education program or both, if available, that in the opinion of the court
70 best suits the needs of the accused. If the accused is placed on local community-based probation, the
71 program or services shall be located in any of the judicial districts served by the local community-based
72 probation services agency or in any judicial district ordered by the court when the placement is with an
73 alcohol safety action program. The services shall be provided by (i) a program licensed by the
74 Department of Behavioral Health and Developmental Services, (ii) certified by the Commission on
75 VASAP, or (iii) by a program or services made available through a community-based probation services
76 agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been
77 established for the locality. When an offender is ordered to a local community-based probation services
78 rather than the alcohol safety action program, the local community-based probation services agency shall
79 be responsible for providing for services or referring the offender to education or treatment services as a
80 condition of probation.

81 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise
82 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the
83 proceedings against him without an adjudication of guilt. A discharge and dismissal hereunder shall be
84 treated as a conviction for the purpose of applying this section in any subsequent proceedings.

85 When any juvenile is found to have committed a violation of subsection A, the disposition of the
86 case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title
87 16.1.

88 *G. No fine, fee, cost, or civil penalty shall be assessed against a juvenile or his parents or other*
89 *persons responsible for his care for violation of this section. However, a court may order such juvenile*
90 *to perform community service as prescribed in subsection C.*

91 **§ 16.1-266. Appointment of counsel and guardian ad litem.**

92 A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or
93 neglected or who is the subject of an entrustment agreement or a petition seeking termination of residual
94 parental rights or who is otherwise before the court pursuant to subdivision A 4 of § 16.1-241 or
95 § 63.2-1230, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to
96 represent the child pursuant to § 16.1-266.1.

97 B. Prior to the detention hearing held pursuant to § 16.1-250, the court shall appoint a qualified and
98 competent attorney-at-law to represent the child unless an attorney has been retained and appears on
99 behalf of the child. For the purposes of appointment of counsel for the detention hearing held pursuant
100 to § 16.1-250 only, a child's indigence shall be presumed. Nothing in this subsection shall prohibit a
101 judge from releasing a child from detention prior to appointment of counsel.

102 C. Subsequent to the detention hearing, if any, and prior to the adjudicatory or transfer hearing by
103 the court of any case involving a child who is alleged to be in need of services, in need of supervision
104 or delinquent, such child and his parent, guardian, legal custodian or other person standing in loco
105 parentis shall be informed by a judge, clerk or probation officer of the child's right to counsel ~~and of the~~
106 ~~liability of the parent, guardian, legal custodian or other person standing in loco parentis for the costs of~~
107 ~~such legal services pursuant to § 16.1-267~~ and be given an opportunity to:

- 108 1. Obtain and employ counsel of the child's own choice; or
- 109 2. Request that the court appoint counsel, provided that before counsel is appointed or the court
110 continues any appointment previously made pursuant to subsection B, the court shall determine that the
111 child is indigent within the contemplation of the law pursuant to guidelines set forth in § 19.2-159 by
112 requiring the child's parent, guardian, legal custodian or other person standing in loco parentis to
113 complete a statement of indigence substantially in the form provided by § 19.2-159 and a financial
114 statement, and upon determination of indigence the court shall appoint an attorney from the list
115 maintained by the Indigent Defense Commission pursuant to § 19.2-163.01 to represent the child; or
- 116 3. Waive the right to representation by an attorney, if the court finds the child and the parent,
117 guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, and
118 such waiver is consistent with the interests of the child. Such written waiver shall be in accordance with
119 law and shall be filed with the court records of the case. A child who is alleged to have committed an
120 offense that would be a felony if committed by an adult, may waive such right only after he consults

121 with an attorney and the court determines that his waiver is free and voluntary. The waiver shall be in
 122 writing, signed by both the child and the child's attorney and shall be filed with the court records of the
 123 case.

124 D. A judge, clerk or probation officer shall inform the parent or guardian of his right to counsel
 125 prior to the adjudicatory hearing of a petition in which a child is alleged to be abused or neglected or at
 126 risk of abuse or neglect as provided in subdivision A 2a of § 16.1-241 and prior to a hearing at which a
 127 parent could be subjected to the loss of residual parental rights. In addition, prior to the hearing by the
 128 court of any case involving any other adult charged with abuse or neglect of a child, this adult shall be
 129 informed of his right to counsel. This adult and the parent or guardian shall be given an opportunity to:

130 1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

131 2. If the court determines that the parent, guardian or other adult is indigent within the contemplation
 132 of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form
 133 provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or other
 134 adult and the court shall appoint an attorney-at-law to represent him; or

135 3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

136 If the identity or location of a parent or guardian is not reasonably ascertainable or a parent or
 137 guardian fails to appear, the court shall consider appointing an attorney-at-law to represent the interests
 138 of the absent parent or guardian, and the hearing may be held.

139 Prior to a hearing at which a child is the subject of an initial foster care plan filed pursuant to
 140 § 16.1-281, a foster care review hearing pursuant to § 16.1-282 and a permanency planning hearing
 141 pursuant to § 16.1-282.1, the court shall consider appointing counsel to represent the child's parent or
 142 guardian.

143 E. In those cases described in subsections A, B, C and D, which in the discretion of the court require
 144 counsel or a guardian ad litem to represent the child or children or the parent or guardian or other adult
 145 party in addition to the representation provided in those subsections, a discreet and competent
 146 attorney-at-law may be appointed by the court as counsel or a guardian ad litem.

147 F. In all other cases which in the discretion of the court require counsel or a guardian ad litem, or
 148 both, to represent the child or children or the parent or guardian, discreet and competent attorneys-at-law
 149 may be appointed by the court. However, in cases where the custody of a child or children is the subject
 150 of controversy or requires determination and each of the parents or other persons claiming a right to
 151 custody is represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent
 152 the interests of the child or children unless the court finds, at any stage in the proceedings in a specific
 153 case, that the interests of the child or children are not otherwise adequately represented.

154 G. Any state or local agency, department, authority or institution and any school, hospital, physician
 155 or other health or mental health care provider shall permit a guardian ad litem or counsel for the child
 156 appointed pursuant to this section to inspect and copy, without the consent of the child or his parents,
 157 any records relating to the child whom the guardian or counsel represents upon presentation by him of a
 158 copy of the court order appointing him or a court order specifically allowing him such access. Upon
 159 request therefor by the guardian ad litem or counsel for the child made at least 72 hours in advance, a
 160 mental health care provider shall make himself available to conduct a review and interpretation of the
 161 child's treatment records which are specifically related to the investigation. Such a request may be made
 162 in lieu of or in addition to inspection and copying of the records.

163 **§ 16.1-267. Compensation of appointed counsel.**

164 A. When the court appoints counsel to represent a child pursuant to subsection A of § 16.1-266 and,
 165 after an investigation by the court services unit, finds that the parents are financially able to pay for the
 166 attorney and refuse to do so, the court shall assess costs against the parents for such legal services in the
 167 maximum amount of that awarded the attorney by the court under the circumstances of the case,
 168 considering such factors as the ability of the parents to pay and the nature and extent of the counsel's
 169 duties in the case. Such amount shall not exceed the maximum amount specified in subdivision 1 of
 170 § 19.2-163 if the action is in district court.

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

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

181 B. When the court appoints counsel to represent a parent, guardian or other adult pursuant to

182 § 16.1-266, such counsel shall be compensated for his services pursuant to § 19.2-163.

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

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

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

199 **§ 16.1-272. Power of circuit court over juvenile offender.**

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

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

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

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

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

225 5. *The court shall not impose any fine, fee, or cost on any juvenile or his parent or other persons*
226 *responsible for his care.*

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

230 C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under
231 the criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63,
232 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
233 minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of
234 § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the
235 Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.)
236 of Title 9.1.

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

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

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

247 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
 248 **statement.**

249 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
 250 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a
 251 violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing
 252 curfew violations, the court before final disposition thereof may require an investigation, which (i) shall
 253 include a drug screening and (ii) may, and for the purposes of subdivision A 44 13 or 47 16 of
 254 § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an
 255 assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the
 256 child and the facts and circumstances surrounding the violation of law. However, in the case of a
 257 juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which
 258 would be (a) a felony if committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or
 259 Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a
 260 Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo
 261 a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence
 262 problem, an assessment shall be completed by a certified substance abuse counselor as defined in
 263 § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit
 264 or by an individual employed by or currently under contract to such agencies and who is specifically
 265 trained to conduct such assessments under the supervision of such counselor.

266 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
 267 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
 268 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
 269 physical, psychological, or economic injury as a result of the violation of law.

270 *C. The court shall not impose any fine, fee, or cost on any juvenile or his parent or other persons*
 271 *responsible for his care.*

272 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

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

290 ~~Whenever the~~ *The parent or other person responsible for the care and support of a juvenile is*
 291 ~~determined by the court to be financially unable to~~ *shall not be required to* pay the costs of such
 292 examination as ordered by the juvenile court or the circuit court, ~~such~~. *Such costs may* shall be paid
 293 according to procedures and rates adopted by the Department from funds appropriated in the general
 294 appropriation act for the Department.

295 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found to
 296 be delinquent for an offense that is eligible for commitment pursuant to subdivision A 44 13 of
 297 § 16.1-278.8 or § 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile
 298 Justice for a period of time not to exceed 30 days for diagnostic assessment services after the
 299 adjudicatory hearing and prior to final disposition of his or her case. Prior to such a placement, the
 300 Department shall determine that the personnel, services and space are available in the appropriate
 301 correctional facility for the care, supervision and study of such juvenile and that the juvenile's case is
 302 appropriate for referral for diagnostic services.

303 Whenever a juvenile concerning whom a petition has been filed appears to be in need of nursing,
 304 medical or surgical care, the juvenile court or the circuit court may order the parent or other person

305 responsible for the care and support of the juvenile to provide such care in a hospital or otherwise and
306 to pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the
307 juvenile court or the circuit court may refer the matter to the authority designated in accordance with
308 law for the determination of eligibility for such services in the county or city in which such juvenile or
309 his parents have residence or legal domicile.

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

313 **§ 16.1-278.7. Commitment to Department of Juvenile Justice.**

314 Only a juvenile who is (i) adjudicated delinquent of an act enumerated in subsection B or C of
315 § 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
316 Department of Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to
317 subdivision A 44 13 or A 47 16 of § 16.1-278.8, at the time a court commits a child to the Department
318 of Juvenile Justice the court shall order an investigation pursuant to § 16.1-273 to be completed within
319 15 days. No juvenile court or circuit court shall order the commitment of any child jointly to the
320 Department of Juvenile Justice and to a local board of social services or transfer the custody of a child
321 jointly to a court service unit of a juvenile court and to a local board of social services. Any person
322 sentenced and committed to an active term of incarceration in the Department of Corrections who is, at
323 the time of such sentencing, in the custody of the Department of Juvenile Justice, upon pronouncement
324 of sentence, shall be immediately transferred to the Department of Corrections.

325 **§ 16.1-278.8. Delinquent juveniles.**

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

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

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

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

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

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

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

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

350 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or
351 drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the
352 treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse
353 screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the
354 commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs
355 and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not
356 previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such
357 facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of
358 participation in the program, he shall be brought before the court for a hearing at which the court may
359 impose any other disposition authorized by this section. The court shall review such placements at
360 30-day intervals;

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

362 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile
363 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is
364 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such
365 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of
366 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who

367 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to
 368 and from school. The restricted permit shall be issued in accordance with the provisions of such
 369 subsection. However, only an abstract of the court order that identifies the juvenile and the conditions
 370 under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

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

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

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

385 ~~10.~~ 9. Require the juvenile to make restitution or reparation to the aggrieved party or parties for
 386 actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

387 ~~11.~~ 10. Require the juvenile to participate in a public service project under such conditions as the
 388 court prescribes;

389 ~~12.~~ 11. In case of traffic violations, impose only those penalties that are authorized to be imposed on
 390 adults for such violations. However, for those violations punishable by confinement if committed by an
 391 adult, confinement shall be imposed only as authorized by this title;

392 ~~13.~~ 12. Transfer legal custody to any of the following:

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

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

399 c. The local board of social services of the county or city in which the court has jurisdiction or, at
 400 the discretion of the court, to the local board of the county or city in which the juvenile has residence if
 401 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for
 402 care and custody, provided that it has been given reasonable notice of the pendency of the case and an
 403 opportunity to be heard. However, in an emergency in the county or city in which the court has
 404 jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed
 405 14 days without prior notice or an opportunity to be heard if the judge entering the placement order
 406 describes the emergency and the need for such temporary placement in the order. Nothing in this
 407 subdivision shall prohibit the commitment of a juvenile to any local board of social services in the
 408 Commonwealth when such local board consents to the commitment. The board to which the juvenile is
 409 committed shall have the final authority to determine the appropriate placement for the juvenile. Nothing
 410 herein shall limit the authority of the court to review the child's status in foster care in accordance with
 411 subsection G of § 16.1-281 or to review the foster care plan through a petition filed pursuant to
 412 subsection A of § 16.1-282. Any order authorizing removal from the home and transferring legal custody
 413 of a juvenile to a local board of social services as provided in this subdivision shall be entered only
 414 upon a finding by the court that reasonable efforts have been made to prevent removal and that
 415 continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so
 416 state;

417 ~~14.~~ 13. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
 418 and his attorney or other legal representative, upon consideration of the results of an investigation
 419 completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if
 420 (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in
 421 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
 422 offense that would be a felony if committed by an adult, (b) an offense that would be a Class 1
 423 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent
 424 based on an offense that would be a felony if committed by an adult, or (c) an offense that would be a
 425 Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated
 426 delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult,
 427 and each such offense was not a part of a common act, transaction or scheme;

428 15. 14. Impose the penalty authorized by § 16.1-284;
 429 16. 15. Impose the penalty authorized by § 16.1-284.1;
 430 17. 16. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile
 431 and his attorney or other legal representative, upon consideration of the results of an investigation
 432 completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

433 18. 17. Impose the penalty authorized by § 16.1-278.9; or
 434 19. 18. Require the juvenile to participate in a gang-activity prevention program including, but not
 435 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to
 436 § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations:
 437 § 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,
 438 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted
 439 pursuant to § 15.2-1812.2.

440 B. If a court finds a juvenile delinquent of any of the following offenses, the court shall require the
 441 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
 442 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51,
 443 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,
 444 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to
 445 § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project
 446 under such conditions as the court prescribes.

447 C. *The court shall not impose any fine, fee, or cost on any juvenile or his parent or other persons*
 448 *responsible for his care.*

449 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
 450 **offenses; truancy.**

451 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the
 452 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
 453 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2;
 454 (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or
 455 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248,
 456 18.2-248.1, or 18.2-250; (v) the unlawful purchase, possession, or consumption of alcohol in violation of
 457 § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds
 458 in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a
 459 county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a
 460 "streetsweeper" as defined below; or (viii) a violation of § 18.2-83, the court shall order, in addition to
 461 any other penalty that it may impose as provided by law for the offense, that the child be denied a
 462 driver's license. In addition to any other penalty authorized by this section, if the offense involves a
 463 violation designated under clause (i) and the child was transporting a person 17 years of age or younger,
 464 the court shall *not* impose the additional fine ~~and~~ *but shall* order community service as provided in
 465 § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial
 466 of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,
 467 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the
 468 age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a
 469 violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of
 470 six months unless the offense is committed by a child under the age of 16 years and three months, in
 471 which case the child's ability to apply for a driver's license shall be delayed for a period of six months
 472 following the date he reaches the age of 16 and three months. If the offense involves a first violation
 473 designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment
 474 of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until
 475 such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation
 476 designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the
 477 delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a
 478 violation designated under clause (vii), the denial of driving privileges shall be for a period of not less
 479 than 30 days, except when the offense involves possession of a concealed handgun or a striker 12,
 480 commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a
 481 spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving
 482 privileges shall be for a period of two years unless the offense is committed by a child under the age of
 483 16 years and three months, in which event the child's ability to apply for a driver's license shall be
 484 delayed for a period of two years following the date he reaches the age of 16 and three months.

485 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
 486 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's
 487 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under
 488 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed
 489 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

490 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
 491 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the
 492 child's ability to apply for a driver's license for a period of one year following the date he reaches the
 493 age of 16 and three months, as may be appropriate.

494 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
 495 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year
 496 or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period
 497 of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent
 498 such offense.

499 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
 500 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be
 501 held in the physical custody of the court during any period of license denial.

502 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
 503 which shall preserve a record thereof. The report and the record shall include a statement as to whether
 504 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
 505 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title
 506 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth
 507 and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles
 508 unless the proceeding results in an adjudication of guilt pursuant to subsection F.

509 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
 510 driver's license until such time as is stipulated in the court order or until notification by the court of
 511 withdrawal of the order of denial under subsection E.

512 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
 513 subsection A or a violation designated under subsection A2, the child may be referred to a certified
 514 alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the
 515 court may set forth. If the finding as to such child involves a violation designated under clause (iii),
 516 (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or
 517 educational services upon such terms and conditions as the court may set forth.

518 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
 519 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
 520 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes
 521 set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted
 522 license shall be issued for travel to and from home and school when school-provided transportation is
 523 available and no restricted license shall be issued if the finding as to such child involves a violation
 524 designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of
 525 any offense designated in subsection A, a second finding by the court of failure to comply with school
 526 attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by
 527 the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted
 528 permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall
 529 specifically enumerate the restrictions imposed and contain such information regarding the child as is
 530 reasonably necessary to identify him. The child may operate a motor vehicle under the court order in
 531 accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions
 532 imposed pursuant to this section is guilty of a violation of § 46.2-301.

533 E. Upon petition made at least 90 days after issuance of the order, the court may review and
 534 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
 535 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be
 536 reviewed and withdrawn until one year after its issuance.

537 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection
 538 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's
 539 license has been restored, the court shall or, in the event the violation resulted in the injury or death of
 540 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
 541 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
 542 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
 543 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
 544 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves
 545 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed
 546 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or
 547 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of
 548 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
 549 under § 16.1-278.8.

550 § 16.1-284. When adult sentenced for juvenile offense.

551 A. When the juvenile court sentences an adult who has committed, before attaining the age of 18, an
552 offense that would be a crime if committed by an adult, the court may impose, for each offense, the
553 penalties that are authorized to be imposed on adults for such violations, not to exceed the punishment
554 for a Class 1 misdemeanor, provided that the total jail sentence imposed shall not exceed 36 continuous
555 months and ~~the total~~ *no fine shall not exceed \$2,500 be imposed* or the court may order a disposition as
556 provided in subdivision A 4, 5, 7, ~~11, 12, 14, or 17~~ 10, 11, 13, or 16 and subsection B of § 16.1-278.8.
557 *No other fine, fee, or cost shall be imposed on such adult.*

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

562 **§ 16.1-284.1. Placement in secure local facility.**

563 A. If a juvenile 14 years of age or older is found to have committed an offense which if committed
564 by an adult would be punishable by confinement in a state or local correctional facility as defined in
565 § 53.1-1, and the court determines (i) that the juvenile has not previously been and is not currently
566 adjudicated delinquent of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that
567 the juvenile has not been released from the custody of the Department within the previous 18 months,
568 (iii) that the interests of the juvenile and the community require that the juvenile be placed under legal
569 restraint or discipline, and (iv) that other placements authorized by this title will not serve the best
570 interests of the juvenile, then the court may order the juvenile confined in a detention home or other
571 secure facility for juveniles for a period not to exceed six months from the date the order is entered, for
572 a single offense or multiple offenses. However, if the single offense or multiple offenses, which if
573 committed by an adult would be punishable as a felony or a Class 1 misdemeanor, caused the death of
574 any person, then the court may order the juvenile confined in a detention home or other secure facility
575 for juveniles for a period not to exceed 12 months from the date the order is entered.

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

579 B. If the period of confinement in a detention home or other secure facility for juveniles is to exceed
580 30 calendar days, and the juvenile is eligible for commitment pursuant to subdivision A ~~14~~ 13 of
581 § 16.1-278.8, then the court shall order the juvenile committed to the Department, but suspend such
582 commitment. In suspending the commitment to the Department as provided for in this subsection, the
583 court shall specify conditions for the juvenile's satisfactory completion of one or more community or
584 facility based treatment programs as may be appropriate for the juvenile's rehabilitation.

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

599 C1. The appearance of the juvenile before the court for a hearing pursuant to subsection C may be
600 by (i) personal appearance before the judge or (ii) use of two-way electronic video and audio
601 communication. If two-way electronic video and audio communication is used, a judge may exercise all
602 powers conferred by law and all communications and proceedings shall be conducted in the same
603 manner as if the appearance were in person, and any documents filed may be transmitted by facsimile
604 process. A facsimile may be served or executed by the officer or person to whom sent, and returned in
605 the same manner, and with the same force, effect, authority, and liability as an original document. All
606 signatures thereon shall be treated as original signatures. Any two-way electronic video and audio
607 communication system used for an appearance shall meet the standards as set forth in subsection B of §
608 19.2-3.1.

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

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

617 **§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.**

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

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

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

635 **§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

636 A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents
637 or (ii) a juvenile is placed in temporary shelter care regardless of whether or not legal custody is
638 retained by his parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and
639 20-108.2, or the Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title
640 63.2, shall order the parents to pay support to the Department of Social Services. If the parents fail or
641 refuse to pay such support, the court may proceed against them for contempt, or the order may be filed
642 and shall have the effect of a civil judgment. The provisions of this subsection shall not apply to a
643 juvenile who is committed to the Department pursuant to subdivision A 14 13 or A 17 16 of
644 § 16.1-278.8.

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

647 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the
648 parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and
649 63.2-1910.

650 *D. The provisions of this section shall not apply to the parents or persons responsible for the care of*
651 *a juvenile, or the guardian or trustee of a juvenile's estate, if such juvenile is the subject of a*
652 *delinquency matter resulting in (i) legal custody of such juvenile being vested by the court in someone*
653 *other than his parents, (ii) such juvenile being placed in temporary shelter care, or (iii) such juvenile*
654 *being placed in foster care.*

655 **§ 16.1-290.1. Payment for court-ordered counseling, treatment, or programs.**

656 The court shall ~~not order the participant a minor child or his family to pay for such child's~~
657 ~~participation in any treatment, counseling, or other program for the rehabilitation of a such minor child~~
658 ~~or his family to pay as much of the applicable fee for participation as such person is able to pay in~~
659 ~~delinquency cases. A finding of guilt shall not be required for the court so to order payment.~~

660 **§ 16.1-292. Violation of court order by any person.**

661 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through
662 16.1-278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of
663 § 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the
664 order of the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with,
665 (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by
666 both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its
667 power to punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for
668 contempt after notice and an opportunity for a hearing on the contempt except that confinement in the
669 case of a juvenile shall be in a secure facility for juveniles rather than in jail and shall not exceed a
670 period of seven days for each offense. However, if the person violating the order was a juvenile at the
671 time of the original act and is 18 years of age or older when the court enters a disposition for violation
672 of the order, the judge may order confinement in jail. If a juvenile is found to have violated a court
673 order as a status offender, any order of disposition of such violation confining the juvenile in a secure

674 facility for juveniles shall (a) identify the valid court order that has been violated; (b) specify the factual
 675 basis for determining that there is reasonable cause to believe that the juvenile has violated such order;
 676 (c) state the findings of fact that support a determination that there is no appropriate less restrictive
 677 alternative available to placing the juvenile in such a facility, with due consideration to the best interest
 678 of the juvenile; (d) specify the length of time of such confinement, not to exceed seven days; and (e)
 679 include a plan for the juvenile's release from such facility. Such order of confinement shall not be
 680 renewed or extended.

681 B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order
 682 of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and
 683 sentence such party to confinement in a jail, workhouse, city farm, or work squad as provided in
 684 §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no
 685 event, however, shall such sentence be imposed for a period of more than 12 months. The sum or sums
 686 as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance
 687 of the spouse or the child or children for whose benefit such order or decree provided.

688 C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may
 689 take with respect to a child violating the terms and conditions of an order to those which the court
 690 could have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through
 691 16.1-278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive
 692 the court of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456
 693 subject to the provisions of subsection A or (ii) punish a child for contempt for violation of a
 694 dispositional order in a delinquency proceeding after notice and an opportunity for a hearing regarding
 695 such contempt, including acts of disobedience of the court's dispositional order which are committed
 696 outside the presence of the court.

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

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

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

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

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

727 **§ 16.1-293.1. Mental health services transition plan.**

728 A. The Board of Juvenile Justice, after consultation with the Department of Behavioral Health and
 729 Developmental Services, shall promulgate regulations for the planning and provision of post-release
 730 services for persons committed to the Department of Juvenile Justice pursuant to subdivision A 14 13 of §
 731 16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of §
 732 16.1-284.1 and identified as having a recognized mental health, substance abuse, or other therapeutic
 733 treatment need. The plan shall be in writing and completed prior to the person's release. The purpose of
 734 the plan shall be to ensure continuity of necessary treatment and services.

735 B. The mental health services transition plan shall identify the mental health, substance abuse, or

736 other therapeutic needs of the person being released. Appropriate treatment providers and other persons
737 from state and local agencies or entities, as defined by the Board, shall participate in the development of
738 the plan. Appropriate family members, caregivers, or other persons, as defined by the Board, shall be
739 invited to participate in the development of the person's plan.

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

744 **§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

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

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

753 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision A
754 8, 9, ~~10~~, ~~12~~, 11, 13, or 14, ~~or 15~~ of § 16.1-278.8.

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

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

757 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a
758 spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
759 disposing of a motion to reconsider relating to participation in continuing programs pursuant to
760 § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1, including
761 a protective order required by § 16.1-253.2, or a protective order entered in conjunction with a
762 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)
763 a protective order issued pursuant to § 19.2-152.10, including a protective order required by § 18.2-60.4,
764 or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by
765 the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme
766 Court.

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

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

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

779 **§ 16.1-309.1. Exception as to confidentiality.**

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

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

797 justice at a time when the court is not in session, the Commonwealth's attorney, the Department of
798 Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of
799 record, authorize the public release of the juvenile's name, age, physical description and photograph, the
800 charge for which he is sought, and any other information which may expedite his apprehension.

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

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

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

833 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a
834 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
835 if committed by an adult, the court may order that such victim be informed of the charge or charges
836 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"
837 shall be defined as in § 19.2-11.01.

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

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

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

857 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall
858 report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland

859 Security a juvenile who has been detained in a secure facility but only upon an adjudication of
860 delinquency or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile
861 is in the United States illegally.

862 I. Notwithstanding any other provision of this article, whenever an intake officer proceeds informally
863 against a juvenile, the Department or local court service unit may disclose only such information as
864 necessary to enforce any provision of the diversion program to any law-enforcement officer, school
865 principal where such juvenile attends school, or known victim. Such information shall remain
866 confidential and not be part of such juvenile's academic record. Additionally, a local court service unit
867 may provide information regarding the availability and ordering of a protective order and restitution and
868 dispositional information to the victim in the case.

869 **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition;**
870 **disclosure of information; penalty.**

871 A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i)
872 adjudicated delinquent or convicted of murder or attempted murder, armed robbery, any felony sexual
873 assault or malicious wounding, or a felony violation of a gang-related crime pursuant to Article 2.1
874 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, or (ii) convicted at least three times for offenses which
875 would be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or
876 adjudications shall include only those for offenses occurring after July 1, 1993. However, any Serious or
877 Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be
878 deemed to have been established pursuant to this article and, notwithstanding the limitations of this
879 subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile
880 offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed
881 to state care pursuant to subdivision A 44 13 of § 16.1-278.8 or § 16.1-285.1 may continue to be
882 supervised by SHOCAP until their twenty-first birthday.

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

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

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

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

914 The provisions of this article authorizing information sharing between and among SHOCAP
915 committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11
916 of this title governing dissemination of court and law-enforcement records concerning juveniles, (ii)
917 Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title
918 37.2 and any regulations enacted pursuant thereto governing access to juvenile mental health records,
919 and (iv) Title 63.2 and any regulations enacted pursuant thereto governing access to records concerning

920 treatments or services provided to a juvenile.

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

925 **§ 17.1-275.5. Amounts to be added; judgment in favor of the Commonwealth.**

926 A. The clerk shall assess, in addition to the fees provided for by § 17.1-275.1, 17.1-275.2,
 927 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or
 928 17.1-275.12, the following costs:

- 929 1. Any amount paid by the Commonwealth for legal representation of the defendant;
- 930 2. Any amount paid for trial transcripts;
- 931 3. Extradition costs;
- 932 4. Costs of psychiatric evaluation;
- 933 5. Costs taxed against the defendant as appellant under Rule 5A:30 of the Rules of the Supreme
 934 Court;
- 935 6. Any fee for a returned check or disallowed credit card charge assessed pursuant to subdivision A
 936 28 of § 17.1-275;
- 937 7. Any jury costs;
- 938 8. Any assessment made pursuant to subdivision A 10 of § 17.1-275;
- 939 9. Any fees prescribed in §§ 18.2-268.8 and 46.2-341.26:8;
- 940 10. Any court costs related to an ignition interlock device;
- 941 11. Any fee for testing for HIV;
- 942 12. Any fee for processing an individual admitted to jail as prescribed in § 15.2-1613.1;
- 943 13. Any fee for courthouse security personnel as prescribed in § 53.1-120;
- 944 14. Any fee for a DNA sample as prescribed in § 19.2-310.2;
- 945 15. Reimbursement to the Commonwealth of medical fees as prescribed in § 19.2-165.1;
- 946 16. Any fee for a local criminal justice training academy as prescribed in § 9.1-106;
- 947 17. Any fee prescribed by §§ 16.1-69.48:1.01 and 17.1-275.11;
- 948 18. Any expenses charged pursuant to subsection B or F of § 19.2-187.1; and
- 949 19. Any fee for an electronic summons system as prescribed in § 17.1-279.1.

950 B. The total amount of assessments described in subsection A, including (i) the fees provided for by
 951 § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10,
 952 17.1-275.11, 17.1-275.11:1, or 17.1-275.12 and (ii) all other fines and costs, shall be docketed by the
 953 clerk as a judgment against the defendant in favor of the Commonwealth in accordance with § 8.01-446.

954 C. *No fees shall be assessed by the clerk pursuant to subsection A to a juvenile defendant or his*
 955 *parent or other persons responsible for his care for a case involving any offense, except those offenses*
 956 *under Title 46.2.*

957 **§ 18.2-246.13. Civil penalties; penalties.**

958 A. In addition to any criminal penalties for violations of this article and except for civil penalties
 959 otherwise provided in this article, a first violation of any provision of this article shall be punishable by
 960 a civil penalty of no more than \$1,000. A second or subsequent violation of any provision of this article
 961 shall be punishable by a civil penalty of no more than \$10,000.

962 B. Any prospective consumer who knowingly submits a false certification under subdivision A 1 of
 963 § 18.2-246.8 shall be subject to a civil penalty of no more than \$5,000 for each such offense.

964 C. Any person failing to collect or remit to the Board or the Department of Taxation any tax
 965 required in connection with a delivery sale shall be assessed, in addition to any other applicable penalty,
 966 a civil penalty of no more than five times the retail value of the cigarettes involved.

967 D. Any civil penalty collected under this article shall be paid to the general fund.

968 E. Any person who fails to file the statement required by subsection A of § 18.2-246.11 and
 969 thereafter makes a delivery sale is guilty of a Class 1 misdemeanor and for any second or subsequent
 970 offense is guilty of a violation of § 18.2-498.3.

971 F. Any person who knowingly and with the intent to defraud, mislead, or deceive makes a statement
 972 filed as required by subsection A of § 18.2-246.11 which is false is guilty of a violation of
 973 § 18.2-498.3. Each such filed statement containing one or more false statements shall constitute a
 974 separate offense.

975 G. Any person who fails to make the report required by subsection B of § 18.2-246.11 is guilty of a
 976 Class 1 misdemeanor and for any second or subsequent offense is guilty of a violation of § 18.2-498.3.

977 H. Any person who knowingly and with the intent to defraud, mislead, or deceive makes a materially
 978 false statement in any report required by subsection B of § 18.2-246.11 is guilty of a violation of
 979 § 18.2-498.3. Each such report containing one or more false statements constitutes a separate offense.

980 I. *No fine, fee, cost, or civil penalty shall be assessed against a juvenile or his parents or other*
 981 *persons responsible for his care for violation of this section. However, a court may order such juvenile*

982 to perform up to 20 hours of community service for a first violation of subsection A and up to 40 hours
983 of community service for a second or subsequent violation.

984 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**
985 **alternative nicotine products, and hemp products intended for smoking by a person under 21**
986 **years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products,**
987 **and hemp products intended for smoking to persons under 21 years of age; civil penalties.**

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

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

999 B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco
1000 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The
1001 provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine
1002 vapor products, alternative nicotine products, or hemp products intended for smoking by a person less
1003 than 21 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative
1004 nicotine products, or hemp products intended for smoking in pursuance of his employment or (ii) as part
1005 of a scientific study being conducted by an organization for the purpose of medical research to further
1006 efforts in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided
1007 that such medical research has been approved by an institutional review board pursuant to applicable
1008 federal regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of
1009 Title 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a
1010 law-enforcement officer or his agent when the same is necessary in the performance of his duties.

1011 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or
1012 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's
1013 license or similar photo identification issued by a government agency, that the individual is at least 21
1014 years of age. Such identification is not required from an individual whom the person has reason to
1015 believe is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the
1016 person demanded, was shown, and reasonably relied upon a photo identification stating that the
1017 individual was at least 21 years of age shall be a defense to any action brought under this subsection. In
1018 determining whether a person had reason to believe an individual is at least 21 years of age, the trier of
1019 fact may consider, but is not limited to, proof of the general appearance, facial characteristics, behavior,
1020 and manner of the individual.

1021 This subsection shall not apply to mail order or Internet sales, provided that the person offering the
1022 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
1023 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine
1024 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the
1025 purchaser is at least 21 years of age through a commercially available database that is regularly used by
1026 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a
1027 method of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age
1028 before the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product
1029 intended for smoking will be released to the purchaser.

1030 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any
1031 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
1032 smoking to any active duty military personnel who are 18 years of age or older. An identification card
1033 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

1034 E. A violation of subsection A or C by an individual or by a separate retail establishment that
1035 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or
1036 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first
1037 violation, a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed
1038 \$500 for a third or subsequent violation.

1039 A violation of subsection A or C by an individual or by a separate retail establishment that involves
1040 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a
1041 first violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the
1042 amount of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers

1043 proof that it has trained its employees concerning the requirements of this section, the court shall
1044 suspend all of the penalties imposed hereunder. However, where the court finds that a retail
1045 establishment has failed to so train its employees, the court may impose a civil penalty not to exceed
1046 \$1,000 in lieu of any penalties imposed hereunder for a violation of subsection A or C involving a
1047 nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or tobacco
1048 product other than a bidi.

1049 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation
1050 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an
1051 alternative to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20
1052 hours of community service for a first violation of subsection B and up to 40 hours of community
1053 service for a second or subsequent violation. If the defendant fails or refuses to complete the community
1054 service as prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the
1055 judge may enter an order pursuant to subdivision A 9 8 of § 16.1-278.8.

1056 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred
1057 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any
1058 law-enforcement officer may issue a summons for a violation of subsection A, B, or C.

1059 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
1060 provided by the manufacturer, with the required health warning. The proprietor of every retail
1061 establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine
1062 product, or hemp product intended for smoking shall post in a conspicuous manner and place a sign or
1063 signs indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products,
1064 or hemp products intended for smoking to any person under 21 years of age is prohibited by law. Any
1065 attorney for the county, city, or town in which an alleged violation of this subsection occurred may
1066 enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty
1067 shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the county,
1068 city, or town which instituted the action.

1069 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health
1070 Services Administration published at 61 Federal Register 1492, the Department of Agriculture and
1071 Consumer Services may promulgate regulations which allow the Department to undertake the activities
1072 necessary to comply with such regulations.

1073 3. Any attorney for the county, city, or town in which an alleged violation of this subsection
1074 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The
1075 civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to
1076 the county, city, or town which instituted the action.

1077 G. Nothing in this section shall be construed to create a private cause of action.

1078 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105
1079 may issue a summons for any violation of this section.

1080 I. As used in this section:

1081 "Alternative nicotine product" means any noncombustible product containing nicotine that is intended
1082 for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.
1083 "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product
1084 regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
1085 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

1086 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*)
1087 or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as
1088 a bidi or beedie.

1089 "Hemp product" means the same as that term is defined in § 3.2-4112.

1090 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a
1091 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
1092 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.

1093 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
1094 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other
1095 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,
1096 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product
1097 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and
1098 Cosmetic Act.

1099 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
1100 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor
1101 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21
1102 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

1103 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
1104 smoking in a manner similar to a cigarette or cigar.

1105 *J. No fine, fee, cost, or civil penalty shall be assessed against a juvenile or his parents or other*
1106 *persons responsible for his care for violation of this section. However, a court may order such juvenile*
1107 *to perform community service as prescribed in subsection E.*

1108 **§ 19.2-159. Determination of indigency; guidelines; statement of indigence; appointment of**
1109 **counsel.**

1110 A. If the accused shall claim that he is indigent, and the charge against him is a criminal offense that
1111 may be punishable by confinement in the state correctional facility or jail, subject to the provisions of §
1112 19.2-160, the court shall determine from oral examination of the accused or other competent evidence
1113 whether or not the accused is indigent within the contemplation of law pursuant to the guidelines set
1114 forth in this section.

1115 B. In making its finding, the court shall determine whether or not the accused is a current recipient
1116 of a state or federally funded public assistance program for the indigent. If the accused is a current
1117 recipient of such a program and does not waive his right to counsel or retain counsel on his own behalf,
1118 he shall be presumed eligible for the appointment of counsel. This presumption shall be rebuttable where
1119 the court finds that a more thorough examination of the financial resources of the defendant is
1120 necessary. If the accused shall claim to be indigent and is not presumptively eligible under the
1121 provisions of this section, then a thorough examination of the financial resources of the accused shall be
1122 made with consideration given to the following:

1123 1. The net income of the accused, which shall include his total salary and wages minus deductions
1124 required by law. The court also shall take into account income and amenities from other sources
1125 including but not limited to social security funds, union funds, veteran's benefits, other regular support
1126 from an absent family member, public or private employee pensions, dividends, interests, rents, estates,
1127 trusts, or gifts.

1128 2. All assets of the accused which are convertible into cash within a reasonable period of time
1129 without causing substantial hardship or jeopardizing the ability of the accused to maintain home and
1130 employment. Assets shall include all cash on hand as well as in checking and savings accounts, stocks,
1131 bonds, certificates of deposit, and tax refunds. All personal property owned by the accused which is
1132 readily convertible into cash shall be considered, except property exempt from attachment. Any real
1133 estate owned by the accused shall be considered in terms of the amounts which could be raised by a
1134 loan on the property. For purposes of eligibility determination, the income, assets, and expenses of the
1135 spouse, if any, who is a member of the accused's household, shall be considered, unless the spouse was
1136 the victim of the offense or offenses allegedly committed by the accused.

1137 3. Any exceptional expenses of the accused and his family which would, in all probability, prohibit
1138 him from being able to secure private counsel. Such items shall include but not be limited to costs for
1139 medical care, family support obligations, and child care payments.

1140 The available funds of the accused shall be calculated as the sum of his total income and assets less
1141 the exceptional expenses as provided in the first paragraph of this subdivision 3. If the accused does not
1142 waive his right to counsel or retain counsel on his own behalf, counsel shall be appointed for the
1143 accused if his available funds are equal to or below 125 percent of the federal poverty income
1144 guidelines prescribed for the size of the household of the accused by the federal Department of Health
1145 and Human Services. The Supreme Court of Virginia shall be responsible for distributing to all courts
1146 the annual updates of the federal poverty income guidelines made by the Department.

1147 If the available funds of the accused exceed 125 percent of the federal poverty income guidelines and
1148 the accused fails to employ counsel and does not waive his right to counsel, the court may, in
1149 exceptional circumstances, and where the ends of justice so require, appoint an attorney to represent the
1150 accused. However, in making such appointments, the court shall state in writing its reasons for so doing.
1151 The written statement by the court shall be included in the permanent record of the case.

1152 C. If the court determines that the accused is indigent as contemplated by law pursuant to the
1153 guidelines set forth in this section, the court shall provide the accused with a statement which shall
1154 contain the following:

1155 "I have been advised this _____ day of _____, 20__, by the (name of court) court of my right to
1156 representation by counsel in the trial of the charge pending against me; I certify that I am without
1157 means to employ counsel and I hereby request the court to appoint counsel for me."

1158 _____ (signature of accused)

1159 The court shall also require the accused to complete a written financial statement to support the
1160 claim of indigency and to permit the court to determine whether or not the accused is indigent within
1161 the contemplation of law. The accused shall execute the said statements under oath, and the said court
1162 shall appoint competent counsel to represent the accused in the proceeding against him, including an
1163 appeal, if any, until relieved or replaced by other counsel.

1164 The executed statements by the accused and the order of appointment of counsel shall be filed with
1165 and become a part of the record of such proceeding.

1166 All other instances in which the appointment of counsel is required for an indigent shall be made in
1167 accordance with the guidelines prescribed in this section.

1168 D. Except in jurisdictions having a public defender, or unless (i) the public defender is unable to
1169 represent the defendant by reason of conflict of interest or (ii) the court finds that appointment of other
1170 counsel is necessary to attain the ends of justice, counsel appointed by the court for representation of the
1171 accused shall be selected by a fair system of rotation among members of the bar practicing before the
1172 court whose names are on the list maintained by the Indigent Defense Commission pursuant to
1173 § 19.2-163.01. If no attorney who is on the list maintained by the Indigent Defense Commission is
1174 reasonably available, the court may appoint as counsel an attorney not on the list who has otherwise
1175 demonstrated to the court's satisfaction an appropriate level of training and experience. The court shall
1176 provide notice to the Commission of the appointment of the attorney.

1177 E. *No juvenile shall have fees or costs assessed against him or his parents or other persons*
1178 *responsible for his care for any amount paid by the Commonwealth for legal representation for a case*
1179 *involving any offense, except those offenses under Title 46.2.*

1180 **§ 19.2-163. Compensation of court-appointed counsel.**

1181 Upon submission to the court, for which appointed representation is provided, of a detailed
1182 accounting of the time expended for that representation, made within 30 days of the completion of all
1183 proceedings in that court, counsel appointed to represent an indigent accused in a criminal case shall be
1184 compensated for his services on an hourly basis at a rate set by the Supreme Court of Virginia in a total
1185 amount not to exceed the amounts specified in the following schedule:

1186 1. In a district court, a sum not to exceed \$120, provided that, notwithstanding the foregoing
1187 limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the
1188 Supreme Court of Virginia, may waive the limitation of fees up to (i) an additional \$120 when the
1189 effort expended, the time reasonably necessary for the particular representation, the novelty and
1190 difficulty of the issues, or other circumstances warrant such a waiver; or (ii) an amount up to \$650 to
1191 defend, in the case of a juvenile, an offense that would be a felony if committed by an adult that may
1192 be punishable by confinement in the state correctional facility for a period of more than 20 years, or a
1193 charge of violation of probation for such offense, when the effort expended, the time reasonably
1194 necessary for the particular representation, the novelty and difficulty of the issues, or other
1195 circumstances warrant such a waiver; or (iii) such other amount as may be provided by law. Such
1196 amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the
1197 indigent through to its conclusion or a charge of violation of probation at any hearing conducted under
1198 § 19.2-306; thereafter, compensation for additional charges against the same accused also conducted by
1199 the same counsel shall be allowed on the basis of additional time expended as to such additional
1200 charges;

1201 2. In a circuit court (i) to defend a Class 1 felony charge, compensation for each appointed attorney
1202 in an amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by
1203 confinement in the state correctional facility for a period of more than 20 years, or a charge of violation
1204 of probation for such offense, a sum not to exceed \$1,235, provided that, notwithstanding the foregoing
1205 limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the
1206 Supreme Court of Virginia, may waive the limitation of fees up to an additional \$850 when the effort
1207 expended, the time reasonably necessary for the particular representation, the novelty and difficulty of
1208 the issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a
1209 charge of violation of probation for such offense, a sum not to exceed \$445, provided that,
1210 notwithstanding the foregoing limitation, the court in its discretion, and subject to guidelines issued by
1211 the Executive Secretary of the Supreme Court of Virginia, may waive the limitation of fees up to an
1212 additional \$155 when the effort expended, the time reasonably necessary for the particular
1213 representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver;
1214 and (iv) in the circuit court only, to defend any misdemeanor charge punishable by confinement in jail
1215 or a charge of violation of probation for such offense, a sum not to exceed \$158. In the event any case
1216 is required to be retried due to a mistrial for any cause or reversed on appeal, the court may allow an
1217 additional fee for each case in an amount not to exceed the amounts allowable in the initial trial. In the
1218 event counsel is appointed to defend an indigent charged with a felony that is punishable as a Class 1
1219 felony, each attorney appointed shall continue to receive compensation as provided in this paragraph for
1220 defending such a felony, regardless of whether the charge is reduced or amended to a lesser felony,
1221 prior to final disposition of the case. In the event counsel is appointed to defend an indigent charged
1222 with any other felony, such counsel shall receive compensation as provided in this paragraph for
1223 defending such a felony, regardless of whether the charge is reduced or amended to a misdemeanor or
1224 lesser felony prior to final disposition of the case in either the district court or circuit court.

1225 Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders,
1226 may request an additional waiver exceeding the amounts provided for in this section. The request for
1227 any additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting

1228 of the time spent and the justification for the additional amount. The presiding judge shall determine,
 1229 subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the
 1230 request for an additional amount is justified in whole or in part, by considering the effort expended and
 1231 the time reasonably necessary for the particular representation, and, if so, shall forward the request as
 1232 approved to the chief judge of the circuit court or district court for approval. If the presiding judge
 1233 determines that the request for an additional amount is not justified in whole or in part, such presiding
 1234 judge shall provide to the requesting attorney, in writing, the reasons for such determination and shall, if
 1235 such request has been approved in part, include a copy of such writing when forwarding the request as
 1236 approved to the chief judge of the circuit court or district court for approval. If the chief judge of the
 1237 circuit court or district court, upon review of the request as approved, determines, subject to the
 1238 guidelines issued by the Executive Secretary of the Supreme Court of Virginia, that any part of the
 1239 request for an additional amount is not justified, such chief judge shall provide to the requesting
 1240 attorney and to the presiding judge, in writing, the reason for such determination.

1241 If at any time the funds appropriated to pay for waivers under this section become insufficient, the
 1242 Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further
 1243 waivers shall be approved.

1244 The circuit or district court shall direct the payment of such reasonable expenses incurred by such
 1245 court-appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed
 1246 by the court to represent an indigent charged with repeated violations of the same section of the Code of
 1247 Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall
 1248 be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such
 1249 offenses are tried as part of the same judicial proceeding. The trial judge shall consider any guidelines
 1250 established by the Supreme Court but shall have the sole discretion to fix the amount of compensation
 1251 to be paid counsel appointed by the court to defend a felony charge that is punishable as a Class 1
 1252 felony.

1253 The circuit or district court shall direct that the foregoing payments shall be paid out by the
 1254 Commonwealth, if the defendant is charged with a violation of a statute, or by the county, city, or town,
 1255 if the defendant is charged with a violation of a county, city, or town ordinance, to the attorney so
 1256 appointed to defend such person as compensation for such defense.

1257 Counsel representing a defendant charged with a Class 1 felony may submit to the court, on a
 1258 monthly basis, a statement of all costs incurred and fees charged by him in the case during that month.
 1259 Whenever the total charges as are deemed reasonable by the court for which payment has not previously
 1260 been made or requested exceed \$1,000, the court may direct that payment be made as otherwise
 1261 provided in this section.

1262 When such directive is entered upon the order book of the court, the Commonwealth, county, city, or
 1263 town, as the case may be, shall provide for the payment out of its treasury of the sum of money so
 1264 specified. If the defendant is convicted, the amount allowed by the court to the attorney appointed to
 1265 defend him shall be taxed against the defendant as a part of the costs of prosecution and, if collected,
 1266 the same shall be paid to the Commonwealth, or the county, city, or town, as the case may be. In the
 1267 event that counsel for the defendant requests a waiver of the limitations on compensation, the court shall
 1268 assess against the defendant an amount equal to the pre-waiver compensation limit specified in this
 1269 section for each charge for which the defendant was convicted. *No such amount allowed by the court to*
 1270 *the attorney appointed to defend a juvenile shall be taxed against him or his parents or other persons*
 1271 *responsible for his care as part of the costs of prosecution of any offense, except those offenses under*
 1272 *Title 46.2. An abstract of such costs shall be docketed in the judgment docket and execution lien book*
 1273 *maintained by such court.*

1274 Any statement submitted by an attorney for payments due him for indigent representation or for
 1275 representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be
 1276 forwarded forthwith by the clerk to the Commonwealth, county, city, or town, as the case may be,
 1277 responsible for payment. *No such amount allowed by the court to the attorney appointed to defend a*
 1278 *juvenile shall be taxed against him or his parents or other persons responsible for his care as part of*
 1279 *the costs of prosecution of any offense, except those offenses under Title 46.2.*

1280 For the purposes of this section, the defense of a case may be considered conducted through to its
 1281 conclusion and an appointed counsel entitled to compensation for his services in the event an indigent
 1282 accused fails to appear in court subject to a capias for his arrest or a show cause summons for his
 1283 failure to appear and remains a fugitive from justice for one year following the issuance of the capias or
 1284 the summons to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

1285 Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and
 1286 report the number and category of offenses charged involving adult and juvenile offenders in cases in
 1287 which court-appointed counsel is assigned. The Executive Secretary shall also track and report the
 1288 amounts paid by waiver above the initial cap to court-appointed counsel. The Executive Secretary shall

1289 provide these reports to the Governor, members of the House Committee on Appropriations, and
1290 members of the Senate Committee on Finance and Appropriations on a quarterly basis.

1291 **§ 19.2-163.4:1. Taxation of convicted persons for representation costs.**

1292 In any case in which an attorney from a public defender office represents an indigent person charged
1293 with an offense and such person is convicted, the sum that would have been allowed a court-appointed
1294 attorney as compensation and as reasonable expenses shall be taxed against the person defended as a
1295 part of the costs of the prosecution, and, if collected, shall be paid to the Commonwealth or, if payment
1296 was made to the Commonwealth by a locality for defense of a local ordinance violation, to the
1297 appropriate county, city or town. An abstract of such costs shall be docketed in the judgment lien docket
1298 and execution book of the court. *This section shall not apply to a juvenile represented by a public*
1299 *defender office or his parents or other persons responsible for his care for a case involving any offense*
1300 *other than those offenses under Title 46.2.*

1301 **§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by**
1302 **electronic means in certain cases; records in office of Department; inspection; clerk's fee for**
1303 **reports.**

1304 A. In the event (i) a person is convicted of a charge described in subdivision A 1 or 2 of § 46.2-382
1305 or § 46.2-382.1, (ii) a person forfeits bail or collateral or other deposit to secure the defendant's
1306 appearance on the charges, unless the conviction has been set aside or the forfeiture vacated, (iii) a court
1307 assigns a defendant to a driver education program or alcohol treatment or rehabilitation program, or both
1308 such programs, as authorized by § 18.2-271.1, (iv) compliance with the court's probation order is
1309 accepted by the court in lieu of a conviction under § 18.2-266 or the requirements specified in
1310 § 18.2-271 as provided in § 18.2-271.1, or (v) there is rendered a judgment for damages against a person
1311 as described in § 46.2-382, every district court or clerk of a circuit court shall forward an abstract of the
1312 record to the Commissioner within 18 days after such conviction, forfeiture, assignment, or acceptance,
1313 and in the case of civil judgments, on the request of the judgment creditor or his attorney, within 30
1314 days after judgment has become final. No abstract of the record in a district court shall be forwarded to
1315 the Commissioner unless the period allowed for an appeal has elapsed and no appeal has been perfected.
1316 On or after July 1, 2013, in the event that a conviction or adjudication has been nullified by separate
1317 order of the court, the clerk shall forward to the Commissioner an abstract of that record.

1318 B. Abstract data of conviction may be furnished to the Commissioner by electronic means provided
1319 that the content of the abstract and the certification complies with the requirements of § 46.2-386. In
1320 cases where the abstract data is furnished by electronic means, the paper abstract shall not be required to
1321 be forwarded to the Commissioner. The Commissioner shall develop a method to ensure that all data is
1322 received accurately. The Commissioner, with the approval of the Governor, may destroy the record of
1323 any conviction, forfeiture, assignment, acceptance, or judgment, when three years has elapsed from the
1324 date thereof, except records of conviction or forfeiture on charges of reckless driving and speeding,
1325 which records may be destroyed when five years has elapsed from the date thereof, and further
1326 excepting those records that alone, or in connection with other records, will require suspension or
1327 revocation or disqualification of a license or registration under any applicable provisions of this title.

1328 C. The records required to be kept may, in the discretion of the Commissioner, be kept by electronic
1329 media or by photographic processes and when so done the abstract of the record may be destroyed.

1330 D. The Code section and description of an offense referenced in an abstract for any juvenile
1331 adjudication obtained from a district court or clerk of circuit court pursuant to subdivision A 9 8 of
1332 § 16.1-278.8, § 16.1-278.9, clause (iii) of subdivision A 1 of § 46.2-382, or any other provision of law
1333 that does not involve an offense referenced in subsection A or an offense involving the operation of a
1334 motor vehicle shall be available only to the person himself, his parent or guardian, law-enforcement
1335 officers, attorneys for the Commonwealth, and courts.

1336 **§ 46.2-808.2. Violations committed within highway safety corridor; report on benefits.**

1337 Notwithstanding any other provision of law, the fine for any moving violation of any provision of
1338 this chapter while operating a motor vehicle in a designated highway safety corridor pursuant to
1339 § 33.2-253 shall be no more than \$500 for any violation that is a traffic infraction and not less than
1340 \$200 for any violation that is a criminal offense. *If a juvenile commits a criminal offense pursuant to*
1341 *this section, such fine shall not be imposed.* The otherwise applicable fines set forth in Rule 3B:2 of the
1342 Rules of the Supreme Court shall be doubled in the case of a waiver of appearance and a plea of guilty
1343 under § 16.1-69.40:1 or 19.2-254.2 for a violation of a provision of this chapter while operating a motor
1344 vehicle in a designated highway safety corridor pursuant to § 33.2-253. The Commissioner of Highways
1345 shall report, on an annual basis, statistical data related to benefits derived from the designation of such
1346 highway safety corridors. This information may be posted on the Virginia Department of
1347 Transportation's official website. Notwithstanding the provisions of § 46.2-1300, the governing bodies
1348 of counties, cities, and towns may not adopt ordinances providing for penalties under this section.

1349 **§ 63.2-100. Definitions.**

1350 As used in this title, unless the context requires a different meaning:

1351 "Abused or neglected child" means any child less than 18 years of age:

1352 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
 1353 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
 1354 accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental
 1355 functions, including, but not limited to, a child who is with his parent or other person responsible for his
 1356 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled
 1357 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person
 1358 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would
 1359 constitute a felony violation of § 18.2-248;

1360 2. Whose parents or other person responsible for his care neglects or refuses to provide care
 1361 necessary for his health. However, no child who in good faith is under treatment solely by spiritual
 1362 means through prayer in accordance with the tenets and practices of a recognized church or religious
 1363 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a
 1364 decision by parents who have legal authority for the child or, in the absence of parents with legal
 1365 authority for the child, any person with legal authority for the child, who refuses a particular medical
 1366 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary
 1367 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;
 1368 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the
 1369 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have
 1370 considered alternative treatment options; and (iv) the parents or other person with legal authority and the
 1371 child believe in good faith that such decision is in the child's best interest. No child whose parent or
 1372 other person responsible for his care allows the child to engage in independent activities without adult
 1373 supervision shall for that reason alone be considered to be an abused or neglected child, provided that
 1374 (a) such independent activities are appropriate based on the child's age, maturity, and physical and
 1375 mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent
 1376 as to endanger the health or safety of the child. Such independent activities include traveling to or from
 1377 school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
 1378 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
 1379 § 16.1-278.4;

1380 3. Whose parents or other person responsible for his care abandons such child;

1381 4. Whose parents or other person responsible for his care, or an intimate partner of such parent or
 1382 person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child
 1383 in violation of the law;

1384 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
 1385 physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco
 1386 parentis;

1387 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
 1388 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
 1389 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who
 1390 the parent or other person responsible for his care knows has been convicted of an offense against a
 1391 minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

1392 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in
 1393 the Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims
 1394 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

1395 If a civil proceeding under this title is based solely on the parent having left the child at a hospital
 1396 or emergency medical services agency, it shall be an affirmative defense that such parent safely
 1397 delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency
 1398 services, (ii) an attended emergency medical services agency that employs emergency medical services
 1399 providers, or (iii) a newborn safety device located at and operated by such hospital or emergency
 1400 medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and
 1401 placement for adoption, the court may find such a child is a neglected child upon the ground of
 1402 abandonment.

1403 "Adoptive home" means any family home selected and approved by a parent, local board or a
 1404 licensed child-placing agency for the placement of a child with the intent of adoption.

1405 "Adoptive placement" means arranging for the care of a child who is in the custody of a
 1406 child-placing agency in an approved home for the purpose of adoption.

1407 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable
 1408 confinement of an adult as defined in § 63.2-1603.

1409 "Adult day care center" means any facility that is either operated for profit or that desires licensure
 1410 and that provides supplementary care and protection during only a part of the day to four or more adults
 1411 who are aged or infirm or who have disabilities and who reside elsewhere, except (i) a facility or

1412 portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and
1413 Developmental Services, and (ii) the home or residence of an individual who cares for only persons
1414 related to him by blood or marriage. Included in this definition are any two or more places,
1415 establishments or institutions owned, operated or controlled by a single entity and providing such
1416 supplementary care and protection to a combined total of four or more adults who are aged or infirm or
1417 who have disabilities.

1418 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as
1419 defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit,
1420 benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the
1421 adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult
1422 exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or
1423 an intentional failure to use the financial resources of an adult in a manner that results in neglect of
1424 such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property
1425 through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for
1426 goods or services or perform services against his will for another's profit, benefit, or advantage if the
1427 adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services
1428 or to perform such services.

1429 "Adult foster care" means room and board, supervision, and special services to an adult who has a
1430 physical or mental condition. Adult foster care may be provided by a single provider for up to three
1431 adults. "Adult foster care" does not include services or support provided to individuals through the
1432 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

1433 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances
1434 that he is not able to provide for himself or is not being provided services necessary to maintain his
1435 physical and mental health and that the failure to receive such necessary services impairs or threatens to
1436 impair his well-being. However, no adult shall be considered neglected solely on the basis that such
1437 adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical
1438 care, provided that such treatment or care is performed in good faith and in accordance with the
1439 religious practices of the adult and there is a written or oral expression of consent by that adult.

1440 "Adult protective services" means services provided by the local department that are necessary to
1441 protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

1442 "Assisted living care" means a level of service provided by an assisted living facility for adults who
1443 may have physical or mental impairments and require at least a moderate level of assistance with
1444 activities of daily living.

1445 "Assisted living facility" means any congregate residential setting that provides or coordinates
1446 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
1447 the maintenance or care of four or more adults who are aged or infirm or who have disabilities and who
1448 are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the
1449 State Board of Health or the Department of Behavioral Health and Developmental Services, but
1450 including any portion of such facility not so licensed; (ii) the home or residence of an individual who
1451 cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a
1452 facility serving individuals who are infirm or who have disabilities between the ages of 18 and 21, or 22
1453 if enrolled in an educational program for individuals with disabilities pursuant to § 22.1-214, when such
1454 facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et
1455 seq.), but including any portion of the facility not so licensed; and (iv) any housing project for
1456 individuals who are 62 years of age or older or individuals with disabilities that provides no more than
1457 basic coordination of care services and is funded by the U.S. Department of Housing and Urban
1458 Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development
1459 Authority. Included in this definition are any two or more places, establishments or institutions owned or
1460 operated by a single entity and providing maintenance or care to a combined total of four or more adults
1461 who are aged or infirm or who have disabilities. Maintenance or care means the protection, general
1462 supervision and oversight of the physical and mental well-being of an individual who is aged or infirm
1463 or who has a disability.

1464 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who
1465 receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive
1466 these benefits except for excess income.

1467 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

1468 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
1469 parent(s) by previous adoption.

1470 "Board" means the State Board of Social Services.

1471 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
1472 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
1473 and meets the eligibility criteria set forth in § 63.2-919.

1474 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
 1475 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
 1476 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
 1477 parents with the process of delegating parental and legal custodial powers of their children pursuant to
 1478 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
 1479 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title
 1480 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
 1481 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

1482 "Child-protective services" means the identification, receipt and immediate response to complaints
 1483 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes
 1484 assessment, and arranging for and providing necessary protective and rehabilitative services for a child
 1485 and his family when the child has been found to have been abused or neglected or is at risk of being
 1486 abused or neglected.

1487 "Child support services" means any civil, criminal or administrative action taken by the Division of
 1488 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or
 1489 collect child support, or child and spousal support.

1490 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent
 1491 foster home.

1492 "Children's residential facility" means any facility, child-caring institution, or group home that is
 1493 maintained for the purpose of receiving children separated from their parents or guardians for full-time
 1494 care, maintenance, protection and guidance, or for the purpose of providing independent living services
 1495 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.
 1496 Children's residential facility shall not include:

1497 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,
 1498 return annually to the homes of their parents or guardians for not less than two months of summer
 1499 vacation;

1500 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1501 3. A licensed or accredited hospital legally maintained as such.

1502 "Commissioner" means the Commissioner of the Department, his designee or authorized
 1503 representative.

1504 "Department" means the State Department of Social Services.

1505 "Department of Health and Human Services" means the Department of Health and Human Services
 1506 of the United States government or any department or agency thereof that may hereafter be designated
 1507 as the agency to administer the Social Security Act, as amended.

1508 "Disposable income" means that part of the income due and payable of any individual remaining
 1509 after the deduction of any amount required by law to be withheld.

1510 "Energy assistance" means benefits to assist low-income households with their home heating and
 1511 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,
 1512 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or
 1513 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance
 1514 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the
 1515 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

1516 "Family and permanency team" means the group of individuals assembled by the local department to
 1517 assist with determining planning and placement options for a child, which shall include, as appropriate,
 1518 all biological relatives and fictive kin of the child, as well as any professionals who have served as a
 1519 resource to the child or his family, such as teachers, medical or mental health providers, and clergy
 1520 members. In the case of a child who is 14 years of age or older, the family and permanency team shall
 1521 also include any members of the child's case planning team that were selected by the child in
 1522 accordance with subsection A of § 16.1-281.

1523 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42
 1524 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in
 1525 accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of
 1526 whom they had been the foster parents.

1527 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
 1528 established relationship with the child or his family.

1529 "Foster care placement" means placement of a child through (i) an agreement between the parents or
 1530 guardians and the local board where legal custody remains with the parents or guardians or (ii) an
 1531 entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care
 1532 placement" does not include placement of a child in accordance with a power of attorney pursuant to
 1533 Chapter 10 (§ 20-166 et seq.) of Title 20.

1534 "Foster home" means a residence approved by a child-placing agency or local board in which any

1535 child, other than a child by birth or adoption of such person or a child who is the subject of a power of
1536 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural
1537 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of
1538 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours
1539 without compensation, resides as a member of the household.

1540 "General relief" means money payments and other forms of relief made to those persons mentioned
1541 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with §
1542 63.2-401.

1543 "Independent foster home" means a private family home in which any child, other than a child by
1544 birth or adoption of such person, resides as a member of the household and has been placed therein
1545 independently of a child-placing agency except (i) a home in which are received only children related by
1546 birth or adoption of the person who maintains such home and children of personal friends of such
1547 person; (ii) a home in which is received a child or children committed under the provisions of
1548 subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A ~~12~~ 12 of § 16.1-278.8;
1549 and (iii) a home in which are received only children who are the subject of a properly executed power
1550 of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

1551 "Independent living" means a planned program of services designed to assist a child age 16 and over
1552 and persons who are former foster care children or were formerly committed to the Department of
1553 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

1554 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
1555 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
1556 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was
1557 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
1558 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
1559 parental supervision.

1560 "Independent living services" means services and activities provided to a child in foster care 14 years
1561 of age or older who was committed or entrusted to a local board of social services, child welfare
1562 agency, or private child-placing agency. "Independent living services" may also mean services and
1563 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
1564 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his
1565 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
1566 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was
1567 committed to the Department of Juvenile Justice immediately prior to placement in an independent
1568 living arrangement. Such services shall include counseling, education, housing, employment, and money
1569 management skills development, access to essential documents, and other appropriate services to help
1570 children or persons prepare for self-sufficiency.

1571 "Independent physician" means a physician who is chosen by the resident of the assisted living
1572 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an
1573 owner, officer, or employee or as an independent contractor with the residence.

1574 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster
1575 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other
1576 entity authorized to make such placements in accordance with the laws of the foreign country under
1577 which it operates.

1578 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
1579 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of
1580 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
1581 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
1582 action of any court.

1583 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

1584 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
1585 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
1586 acting as the child's foster parent.

1587 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
1588 between a child and an adult relative of the child who has formerly acted as the child's foster parent that
1589 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
1590 relative of the child of the authority necessary to ensure the protection, education, care and control, and
1591 custody of the child and the authority for decision making for the child.

1592 "Local board" means the local board of social services representing one or more counties or cities.

1593 "Local department" means the local department of social services of any county or city in the
1594 Commonwealth.

1595 "Local director" means the director or his designated representative of the local department of the
1596 city or county.

1597 "Merit system plan" means those regulations adopted by the Board in the development and operation
 1598 of a system of personnel administration meeting requirements of the federal Office of Personnel
 1599 Management.

1600 "Parental placement" means locating or effecting the placement of a child or the placing of a child in
 1601 a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

1602 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the
 1603 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
 1604 care; and general relief.

1605 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services
 1606 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for
 1607 a home and community-based waiver program, including an independent physician contracting with the
 1608 Department of Medical Assistance Services to complete the uniform assessment instrument for residents
 1609 of assisted living facilities, or any hospital that has contracted with the Department of Medical
 1610 Assistance Services to perform nursing facility pre-admission screenings.

1611 "Qualified individual" means a trained professional or licensed clinician who is not an employee of
 1612 the local board of social services or licensed child-placing agency that placed the child in a qualified
 1613 residential treatment program and is not affiliated with any placement setting in which children are
 1614 placed by such local board of social services or licensed child-placing agency.

1615 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
 1616 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
 1617 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
 1618 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
 1619 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
 1620 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
 1621 outreach with the child's family members, including efforts to maintain connections between the child
 1622 and his siblings and other family; documents and maintains records of such outreach efforts; and
 1623 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
 1624 appropriate and in the best interest of the child, facilitates participation by family members in the child's
 1625 treatment program before and after discharge and documents the manner in which such participation is
 1626 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
 1627 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
 1628 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
 1629 any child placed in the program receive an assessment within 30 days of such placement by a qualified
 1630 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
 1631 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
 1632 identifies whether the needs of the child can be met through placement with a family member or in a
 1633 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
 1634 residential treatment program, that would provide the most effective and appropriate level of care for the
 1635 child in the least restrictive environment and be consistent with the short-term and long-term goals
 1636 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
 1637 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
 1638 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
 1639 16.1-282.1, or 16.1-282.2.

1640 "Residential living care" means a level of service provided by an assisted living facility for adults
 1641 who may have physical or mental impairments and require only minimal assistance with the activities of
 1642 daily living. The definition of "residential living care" includes the services provided by independent
 1643 living facilities that voluntarily become licensed.

1644 "Sibling" means each of two or more children having one or more parents in common.

1645 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic
 1646 violence services, or any other services program implemented in accordance with regulations adopted by
 1647 the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of
 1648 Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14
 1649 of Title 51.5 provided by local departments of social services in accordance with regulations and under
 1650 the supervision of the Commissioner for Aging and Rehabilitative Services.

1651 "Special order" means an order imposing an administrative sanction issued to any party licensed
 1652 pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A
 1653 special order shall be considered a case decision as defined in § 2.2-4001.

1654 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to
 1655 eligible individuals who have received custody of a relative child subject to a kinship guardianship
 1656 assistance agreement developed in accordance with § 63.2-1306.

1657 "Supervised independent living setting" means the residence of a person 18 years of age or older

1658 who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of
1659 Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate,
1660 contracted supervision. "Supervised independent living setting" does not include residential facilities or
1661 group homes.

1662 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
1663 Department through which a relative can receive monthly cash assistance for the support of his eligible
1664 children.

1665 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the
1666 Temporary Assistance for Needy Families program for families in which both natural or adoptive
1667 parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education
1668 and Work (VIEW) participation under § 63.2-609.

1669 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social
1670 Security Act, as amended, and administered by the Department through which foster care is provided on
1671 behalf of qualifying children.

1672 **§ 66-14. Allowance for maintenance of children placed by Commonwealth in private homes, etc.**

1673 For the maintenance of each child committed to the custody of the Department pursuant to
1674 subdivision A 4 13 of § 16.1-278.8 and placed in a private home or in a facility other than one
1675 operated by the Commonwealth, there shall be paid a per diem allowance which shall be established by
1676 the Department from funds appropriated to the Department for this purpose. The cost of such care shall
1677 not exceed that amount which would be incurred if the services required by the child were provided in a
1678 juvenile facility operated by the Department.

1679 No child shall be placed outside the Commonwealth without first complying with the appropriate
1680 provisions of Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2 or with
1681 regulations of the State Board of Social Services relating to resident children placed out of the
1682 Commonwealth.