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## SENATE BILL NO. 481

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 24, 2024)

(Patron Prior to Substitute—Senator Aird)

A *BILL to amend and reenact §§ 4.1-305, 16.1-266, 16.1-267, 16.1-272, 16.1-273, 16.1-275, 16.1-278.8, 16.1-284, 16.1-290, 16.1-290.1, 17.1-275.5, 18.2-246.13, 18.2-371.2, 19.2-159, 19.2-163, and 19.2-163.4:1 of the Code of Virginia, relating to abolition of juvenile fines and fees; criminal offenses.*

**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, 16.1-278.8, 16.1-284, 16.1-290, 16.1-290.1, 17.1-275.5, 18.2-246.13, 18.2-371.2, 19.2-159, 19.2-163, and 19.2-163.4:1 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.

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

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in

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60 subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a  
 61 treatment or education program or both, if available, that in the opinion of the court best suits the needs of the  
 62 accused. If the accused is placed on local community-based probation, the program or services shall be  
 63 located in any of the judicial districts served by the local community-based probation services agency or in  
 64 any judicial district ordered by the court when the placement is with an alcohol safety action program. The  
 65 services shall be provided by (i) a program licensed by the Department of Behavioral Health and  
 66 Developmental Services, (ii) certified by the Commission on VASAP, or (iii) by a program or services made  
 67 available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173  
 68 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a  
 69 local community-based probation services rather than the alcohol safety action program, the local  
 70 community-based probation services agency shall be responsible for providing for services or referring the  
 71 offender to education or treatment services as a condition of probation.

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

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

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

81 **§ 16.1-266. Appointment of counsel and guardian ad litem.**

82 A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected  
 83 or who is the subject of an entrustment agreement or a petition seeking termination of residual parental rights  
 84 or who is otherwise before the court pursuant to subdivision A 4 of § 16.1-241 or § 63.2-1230, the court shall  
 85 appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child pursuant to §  
 86 16.1-266.1.

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

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

98 1. Obtain and employ counsel of the child's own choice; or

99 2. Request that the court appoint counsel, provided that before counsel is appointed or the court continues  
 100 any appointment previously made pursuant to subsection B, the court shall determine that the child is indigent  
 101 within the contemplation of the law pursuant to guidelines set forth in § 19.2-159 by requiring the child's  
 102 parent, guardian, legal custodian or other person standing in loco parentis to complete a statement of  
 103 indigence substantially in the form provided by § 19.2-159 and a financial statement, and upon determination  
 104 of indigence the court shall appoint an attorney from the list maintained by the Indigent Defense Commission  
 105 pursuant to § 19.2-163.01 to represent the child; or

106 3. Waive the right to representation by an attorney, if the court finds the child and the parent, guardian,  
 107 legal custodian or other person standing in loco parentis of the child consent, in writing, and such waiver is  
 108 consistent with the interests of the child. Such written waiver shall be in accordance with law and shall be  
 109 filed with the court records of the case. A child who is alleged to have committed an offense that would be a  
 110 felony if committed by an adult, may waive such right only after he consults with an attorney and the court  
 111 determines that his waiver is free and voluntary. The waiver shall be in writing, signed by both the child and  
 112 the child's attorney and shall be filed with the court records of the case.

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

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

120 2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of

121 the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by §  
122 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court  
123 shall appoint an attorney-at-law to represent him; or

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

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

128 Prior to a hearing at which a child is the subject of an initial foster care plan filed pursuant to § 16.1-281, a  
129 foster care review hearing pursuant to § 16.1-282 and a permanency planning hearing pursuant to § 16.1-  
130 282.1, the court shall consider appointing counsel to represent the child's parent or guardian.

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

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

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

151 **§ 16.1-267. Compensation of appointed counsel.**

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

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

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

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

171 C. 1. In any proceeding in which the court appoints a guardian ad litem to represent a child pursuant to §  
172 16.1-266, the court shall order the parent, or other party with a legitimate interest who has filed a petition in  
173 such proceeding, to reimburse the Commonwealth the costs of such services in an amount not to exceed the  
174 amount awarded the guardian ad litem by the court. If the court determines that such party is unable to pay,  
175 the required reimbursement may be reduced or eliminated. No party whom the court determines to be  
176 indigent pursuant to § 19.2-159 shall be required to pay reimbursement ~~except where the court finds good~~  
177 ~~cause to do so.~~ The Executive Secretary of the Supreme Court shall administer the guardian ad litem program  
178 and shall report August 1 and January 1 of each year to the Chairmen of the House Committee on  
179 Appropriations and the Senate Committee on Finance and Appropriations on the amounts paid for guardian  
180 ad litem purposes, amounts reimbursed, savings achieved, and management actions taken to further enhance  
181 savings under this program.

182 2. For good cause shown, or upon the failure by the guardian ad litem to substantially comply with the

183 standards adopted for attorneys appointed as guardians ad litem pursuant to § 16.1-266.1, the court may  
184 adjust the cost sought by the guardian ad litem of such services.

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

187 **§ 16.1-272. Power of circuit court over juvenile offender.**

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

193 1. If a juvenile is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the  
194 court may order that (i) the juvenile serve a portion of the sentence as a serious juvenile offender under §  
195 16.1-285.1 and the remainder of such sentence in the same manner as provided for adults; (ii) the juvenile  
196 serve the entire sentence in the same manner as provided for adults; or (iii) the portion of the sentence to be  
197 served in the same manner as provided for adults be suspended conditioned upon successful completion of  
198 such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case  
199 including, but not limited to, commitment under subdivision A 14 of § 16.1-278.8 or § 16.1-285.1.

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

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

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

211 5. *Except for a fine, fee, or cost imposed for a violation of § 18.2-266, 18.2-266.1, or 18.2-270 or any*  
212 *reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2, the court shall not*  
213 *impose any fine, fee, or cost on any juvenile or his parent or other persons responsible for his care.*

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

216 C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under the  
217 criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63, 18.2-64.1  
218 , 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or 18.2-370.1 or, where the victim is a minor or is  
219 physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or  
220 subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender and  
221 Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

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

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

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

232 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**  
233 **statement.**

234 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case  
235 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of  
236 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew  
237 violations, the court before final disposition thereof may require an investigation, which (i) shall include a  
238 drug screening and (ii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a  
239 social history of the physical, mental, and social conditions, including an assessment of any affiliation with a  
240 criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances  
241 surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an  
242 act committed on or after January 1, 2000, which would be (a) a felony if committed by an adult, or (b) a  
243 violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2

244 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the  
 245 court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has  
 246 a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse  
 247 counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated  
 248 court services unit or by an individual employed by or currently under contract to such agencies and who is  
 249 specifically trained to conduct such assessments under the supervision of such counselor.

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

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

256 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

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

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

277 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found to be  
 278 delinquent for an offense that is eligible for commitment pursuant to subdivision A 14 of § 16.1-278.8 or §  
 279 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice for a period of time  
 280 not to exceed 30 days for diagnostic assessment services after the adjudicatory hearing and prior to final  
 281 disposition of his or her case. Prior to such a placement, the Department shall determine that the personnel,  
 282 services and space are available in the appropriate correctional facility for the care, supervision and study of  
 283 such juvenile and that the juvenile's case is appropriate for referral for diagnostic services.

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

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

294 **§ 16.1-278.8. Delinquent juveniles.**

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

- 298 1. Enter an order pursuant to the provisions of § 16.1-278;
- 299 2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court  
 300 may order with respect to the juvenile and his parent;
- 301 3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such  
 302 treatment or be subject to such conditions and limitations as the court may order and as are designed for the  
 303 rehabilitation of the juvenile and his parent;
- 304 4. Defer disposition for a specific period of time established by the court with due regard for the gravity of

305 the offense and the juvenile's history, after which time the charge may be dismissed by the judge if the  
306 juvenile exhibits good behavior during the period for which disposition is deferred;

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

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

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

319 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in  
320 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of  
321 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and  
322 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the  
323 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the  
324 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently  
325 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's  
326 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be  
327 brought before the court for a hearing at which the court may impose any other disposition authorized by this  
328 section. The court shall review such placements at 30-day intervals;

329 8. ~~Impose~~ For a violation of § 18.2-266, 18.2-266.1, or 18.2-270 or any reckless driving violation under  
330 Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2, impose a fine not to exceed \$500 upon such juvenile;

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

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

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

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

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

356 11. Require the juvenile to participate in a public service project under such conditions as the court  
357 prescribes;

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

361 13. Transfer legal custody to any of the following:

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

364 b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law  
365 to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent

366 juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the  
367 Director; or

368 c. The local board of social services of the county or city in which the court has jurisdiction or, at the  
369 discretion of the court, to the local board of the county or city in which the juvenile has residence if other  
370 than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and  
371 custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to  
372 be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board  
373 may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an  
374 opportunity to be heard if the judge entering the placement order describes the emergency and the need for  
375 such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a  
376 juvenile to any local board of social services in the Commonwealth when such local board consents to the  
377 commitment. The board to which the juvenile is committed shall have the final authority to determine the  
378 appropriate placement for the juvenile. Nothing herein shall limit the authority of the court to review the  
379 child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan  
380 through a petition filed pursuant to subsection A of § 16.1-282. Any order authorizing removal from the  
381 home and transferring legal custody of a juvenile to a local board of social services as provided in this  
382 subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to  
383 prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile,  
384 and the order shall so state;

385 14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his  
386 attorney or other legal representative, upon consideration of the results of an investigation completed  
387 pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11  
388 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of §  
389 16.1-269.1 or (ii) he is 14 years of age or older and the current offense is (a) an offense that would be a felony  
390 if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and  
391 the juvenile has previously been found to be delinquent based on an offense that would be a felony if  
392 committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and  
393 the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1  
394 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or  
395 scheme;

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

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

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

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

402 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,  
403 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if  
404 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,  
405 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138,  
406 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

407 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the  
408 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the  
409 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1,  
410 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138,  
411 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court  
412 shall further require the juvenile to participate in a community service project under such conditions as the  
413 court prescribes.

414 C. *Except for a fine, fee, or cost imposed (i) in a case of a traffic violation pursuant to subdivision A 12 or*  
415 *(ii) for a violation of § 18.2-266, 18.2-266.1, or 18.2-270 or any reckless driving violation under Article 7 (§*  
416 *46.2-852 et seq.) of Chapter 8 of Title 46.2, the court shall not impose any fine, fee, or cost on any juvenile or*  
417 *his parent or other persons responsible for his care.*

418 **§ 16.1-284. When adult sentenced for juvenile offense.**

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

426 B. A person sentenced pursuant to this section shall earn good time credit at the rate of one day for each

427 one day served, including all days served while confined in jail or secured detention prior to conviction and  
 428 sentencing, in which the person has not violated the written rules and regulations of the jail.

429 *C. The court may impose a fine on a person sentenced pursuant to this section for a violation of § 18.2-*  
 430 *266, 18.2-266.1, or 18.2-270 or any reckless driving violation under Article 7 (§ 46.2-852 et seq.) of Chapter*  
 431 *8 of Title 46.2 and the total fine shall not exceed \$2,500.*

432 **§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

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

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

443 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the  
 444 parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and 63.2-  
 445 1910.

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

451 **§ 16.1-290.1. Payment for court-ordered counseling, treatment, or programs.**

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

456 **§ 17.1-275.5. Amounts to be added; judgment in favor of the Commonwealth.**

457 A. The clerk shall assess, in addition to the fees provided for by § 17.1-275.1, 17.1-275.2, 17.1-275.3,  
 458 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 17.1-275.12, the  
 459 following costs:

- 460 1. Any amount paid by the Commonwealth for legal representation of the defendant;
- 461 2. Any amount paid for trial transcripts;
- 462 3. Extradition costs;
- 463 4. Costs of psychiatric evaluation;
- 464 5. Costs taxed against the defendant as appellant under Rule 5A:30 of the Rules of the Supreme Court;
- 465 6. Any fee for a returned check or disallowed credit card charge assessed pursuant to subdivision A 28 of
- 466 § 17.1-275;
- 467 7. Any jury costs;
- 468 8. Any assessment made pursuant to subdivision A 10 of § 17.1-275;
- 469 9. Any fees prescribed in §§ 18.2-268.8 and 46.2-341.26:8;
- 470 10. Any court costs related to an ignition interlock device;
- 471 11. Any fee for testing for HIV;
- 472 12. Any fee for processing an individual admitted to jail as prescribed in § 15.2-1613.1;
- 473 13. Any fee for courthouse security personnel as prescribed in § 53.1-120;
- 474 14. Any fee for a DNA sample as prescribed in § 19.2-310.2;
- 475 15. Reimbursement to the Commonwealth of medical fees as prescribed in § 19.2-165.1;
- 476 16. Any fee for a local criminal justice training academy as prescribed in § 9.1-106;
- 477 17. Any fee prescribed by §§ 16.1-69.48:1.01 and 17.1-275.11;
- 478 18. Any expenses charged pursuant to subsection B or F of § 19.2-187.1; and
- 479 19. Any fee for an electronic summons system as prescribed in § 17.1-279.1.

480 B. The total amount of assessments described in subsection A, including (i) the fees provided for by §  
 481 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, 17.1-275.11  
 482 , 17.1-275.11:1, or 17.1-275.12 and (ii) all other fines and costs, shall be docketed by the clerk as a judgment  
 483 against the defendant in favor of the Commonwealth in accordance with § 8.01-446.

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

486 **§ 18.2-246.13. Civil penalties; penalties.**

487 A. In addition to any criminal penalties for violations of this article and except for civil penalties



488 otherwise provided in this article, a first violation of any provision of this article shall be punishable by a civil  
489 penalty of no more than \$1,000. A second or subsequent violation of any provision of this article shall be  
490 punishable by a civil penalty of no more than \$10,000.

491 B. Any prospective consumer who knowingly submits a false certification under subdivision A 1 of §  
492 18.2-246.8 shall be subject to a civil penalty of no more than \$5,000 for each such offense.

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

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

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

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

503 G. Any person who fails to make the report required by subsection B of § 18.2-246.11 is guilty of a Class  
504 1 misdemeanor and for any second or subsequent offense is guilty of a violation of § 18.2-498.3.

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

508 *I. No fine, fee, cost, or civil penalty shall be assessed against a juvenile or his parents or other persons*  
509 *responsible for his care for violation of this section. However, a court may order such juvenile to perform up*  
510 *to 20 hours of community service for a first violation of subsection A and up to 40 hours of community*  
511 *service for a second or subsequent violation.*

512 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**  
513 **alternative nicotine products, and hemp products intended for smoking by a person under 21 years of**  
514 **age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp**  
515 **products intended for smoking to persons under 21 years of age; civil penalties.**

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

519 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for  
520 smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a  
521 conspicuous manner and place, indicating that the purchase or possession of such products by persons under  
522 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not  
523 generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons  
524 under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general  
525 public.

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

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

547 This subsection shall not apply to mail order or Internet sales, provided that the person offering the  
548 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking

549 for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine vapor product,  
550 alternative nicotine product, or hemp product intended for smoking verifies that the purchaser is at least 21  
551 years of age through a commercially available database that is regularly used by businesses or governmental  
552 entities for the purpose of age and identity verification and (ii) uses a method of mailing, shipping, or  
553 delivery that requires the signature of a person at least 21 years of age before the tobacco product, nicotine  
554 vapor product, alternative nicotine product, or hemp product intended for smoking will be released to the  
555 purchaser.

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

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

564 A violation of subsection A or C by an individual or by a separate retail establishment that involves the  
565 sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first  
566 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of  
567 \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has  
568 trained its employees concerning the requirements of this section, the court shall suspend all of the penalties  
569 imposed hereunder. However, where the court finds that a retail establishment has failed to so train its  
570 employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed  
571 hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine  
572 product, hemp product intended for smoking, or tobacco product other than a bidi.

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

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

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

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

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

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

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

603 I. As used in this section:

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

609 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or

610 tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi  
611 or beedie.

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

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

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

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

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

630 **§ 19.2-159. Determination of indigency; guidelines; statement of indigence; appointment of counsel.**

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

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

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

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

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

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

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

671 C. If the court determines that the accused is indigent as contemplated by law pursuant to the guidelines

672 set forth in this section, the court shall provide the accused with a statement which shall contain the  
673 following:

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

677 \_\_\_\_\_ (signature of accused)

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

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

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

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

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

699 **§ 19.2-163. Compensation of court-appointed counsel.**

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

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

719 2. In a circuit court (i) to defend a Class 1 felony charge, compensation for each appointed attorney in an  
720 amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by  
721 confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of  
722 probation for such offense, a sum not to exceed \$1,235, provided that, notwithstanding the foregoing  
723 limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the  
724 Supreme Court of Virginia, may waive the limitation of fees up to an additional \$850 when the effort  
725 expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the  
726 issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of  
727 violation of probation for such offense, a sum not to exceed \$445, provided that, notwithstanding the  
728 foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of  
729 the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$155 when the effort  
730 expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the  
731 issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any  
732 misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense,

733 a sum not to exceed \$158. In the event any case is required to be retried due to a mistrial for any cause or  
 734 reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the  
 735 amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a  
 736 felony that is punishable as a Class 1 felony, each attorney appointed shall continue to receive compensation  
 737 as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or  
 738 amended to a lesser felony, prior to final disposition of the case. In the event counsel is appointed to defend  
 739 an indigent charged with any other felony, such counsel shall receive compensation as provided in this  
 740 paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a  
 741 misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

742 Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may  
 743 request an additional waiver exceeding the amounts provided for in this section. The request for any  
 744 additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time  
 745 spent and the justification for the additional amount. The presiding judge shall determine, subject to  
 746 guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an  
 747 additional amount is justified in whole or in part, by considering the effort expended and the time reasonably  
 748 necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge  
 749 of the circuit court or district court for approval. If the presiding judge determines that the request for an  
 750 additional amount is not justified in whole or in part, such presiding judge shall provide to the requesting  
 751 attorney, in writing, the reasons for such determination and shall, if such request has been approved in part,  
 752 include a copy of such writing when forwarding the request as approved to the chief judge of the circuit court  
 753 or district court for approval. If the chief judge of the circuit court or district court, upon review of the request  
 754 as approved, determines, subject to the guidelines issued by the Executive Secretary of the Supreme Court of  
 755 Virginia, that any part of the request for an additional amount is not justified, such chief judge shall provide  
 756 to the requesting attorney and to the presiding judge, in writing, the reason for such determination.

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

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

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

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

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

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

793 For the purposes of this section, the defense of a case may be considered conducted through to its

794 conclusion and an appointed counsel entitled to compensation for his services in the event an indigent  
795 accused fails to appear in court subject to a capias for his arrest or a show cause summons for his failure to  
796 appear and remains a fugitive from justice for one year following the issuance of the capias or the summons  
797 to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

798 Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the  
799 number and category of offenses charged involving adult and juvenile offenders in cases in which court-  
800 appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by  
801 waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports  
802 to the Governor, members of the House Committee on Appropriations, and members of the Senate  
803 Committee on Finance and Appropriations on a quarterly basis.

804 **§ 19.2-163.4:1. Taxation of convicted persons for representation costs.**

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