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HOUSE BILL NO. 1263

House Amendments in [] - February 7, 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 Prior to Engrossment—Delegate Shin

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.

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

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

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

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

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

85 **§ 16.1-266. Appointment of counsel and guardian ad litem.**

86 A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected
87 or who is the subject of an entrustment agreement or a petition seeking termination of residual parental rights
88 or who is otherwise before the court pursuant to subdivision A 4 of § 16.1-241 or § 63.2-1230, the court shall
89 appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child pursuant to §
90 16.1-266.1.

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

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

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

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

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

117 D. A judge, clerk or probation officer shall inform the parent or guardian of his right to counsel prior to
118 the adjudicatory hearing of a petition in which a child is alleged to be abused or neglected or at risk of abuse
119 or neglect as provided in subdivision A 2a of § 16.1-241 and prior to a hearing at which a parent could be

120 subjected to the loss of residual parental rights. In addition, prior to the hearing by the court of any case
 121 involving any other adult charged with abuse or neglect of a child, this adult shall be informed of his right to
 122 counsel. This adult and the parent or guardian shall be given an opportunity to:

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

124 2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of
 125 the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by §
 126 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court
 127 shall appoint an attorney-at-law to represent him; or

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

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

132 Prior to a hearing at which a child is the subject of an initial foster care plan filed pursuant to § 16.1-281, a
 133 foster care review hearing pursuant to § 16.1-282 and a permanency planning hearing pursuant to § 16.1-
 134 282.1, the court shall consider appointing counsel to represent the child's parent or guardian.

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

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

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

155 **§ 16.1-267. Compensation of appointed counsel.**

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

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

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

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

175 C. 1. In any proceeding in which the court appoints a guardian ad litem to represent a child pursuant to §
 176 16.1-266, the court shall order the parent, or other party with a legitimate interest who has filed a petition in
 177 such proceeding, to reimburse the Commonwealth the costs of such services in an amount not to exceed the
 178 amount awarded the guardian ad litem by the court. If the court determines that such party is unable to pay,
 179 the required reimbursement may be reduced or eliminated. No party whom the court determines to be
 180 indigent pursuant to § 19.2-159 shall be required to pay reimbursement ~~except where the court finds good~~

181 ~~cause to do so.~~ The Executive Secretary of the Supreme Court shall administer the guardian ad litem program
182 and shall report August 1 and January 1 of each year to the Chairmen of the House Committee on
183 Appropriations and the Senate Committee on Finance and Appropriations on the amounts paid for guardian
184 ad litem purposes, amounts reimbursed, savings achieved, and management actions taken to further enhance
185 savings under this program.

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

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

191 **§ 16.1-272. Power of circuit court over juvenile offender.**

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

197 1. If a juvenile is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the
198 court may order that (i) the juvenile serve a portion of the sentence as a serious juvenile offender under §
199 16.1-285.1 and the remainder of such sentence in the same manner as provided for adults; (ii) the juvenile
200 serve the entire sentence in the same manner as provided for adults; or (iii) the portion of the sentence to be
201 served in the same manner as provided for adults be suspended conditioned upon successful completion of
202 such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case
203 including, but not limited to, commitment under subdivision A ~~14~~ 13 of § 16.1-278.8 or § 16.1-285.1.

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

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

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

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

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

219 C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under the
220 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
221 , 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
222 physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or
223 subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender and
224 Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

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

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

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

235 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
236 **statement.**

237 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
238 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of
239 the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
240 violations, the court before final disposition thereof may require an investigation, which (i) shall include a
241 drug screening and (ii) may, and for the purposes of subdivision A ~~14~~ 13 or ~~17~~ 16 of § 16.1-278.8 shall,

242 include a social history of the physical, mental, and social conditions, including an assessment of any
 243 affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and
 244 circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on
 245 the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an
 246 adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7
 247 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an
 248 adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the
 249 juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified
 250 substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a
 251 locally operated court services unit or by an individual employed by or currently under contract to such
 252 agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

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

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

259 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

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

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

280 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found to be
 281 delinquent for an offense that is eligible for commitment pursuant to subdivision A 44 13 of § 16.1-278.8 or §
 282 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice for a period of time
 283 not to exceed 30 days for diagnostic assessment services after the adjudicatory hearing and prior to final
 284 disposition of his or her case. Prior to such a placement, the Department shall determine that the personnel,
 285 services and space are available in the appropriate correctional facility for the care, supervision and study of
 286 such juvenile and that the juvenile's case is appropriate for referral for diagnostic services.

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

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

297 **§ 16.1-278.7. Commitment to Department of Juvenile Justice.**

298 Only a juvenile who is (i) adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-
 299 269.1 and is 11 years of age or older or (ii) 14 years of age or older may be committed to the Department of
 300 Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to subdivision A 44
 301 13 or A 47 16 of § 16.1-278.8, at the time a court commits a child to the Department of Juvenile Justice the
 302 court shall order an investigation pursuant to § 16.1-273 to be completed within 15 days. No juvenile court or

303 circuit court shall order the commitment of any child jointly to the Department of Juvenile Justice and to a
 304 local board of social services or transfer the custody of a child jointly to a court service unit of a juvenile
 305 court and to a local board of social services. Any person sentenced and committed to an active term of
 306 incarceration in the Department of Corrections who is, at the time of such sentencing, in the custody of the
 307 Department of Juvenile Justice, upon pronouncement of sentence, shall be immediately transferred to the
 308 Department of Corrections.

309 **§ 16.1-278.8. Delinquent juveniles.**

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

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

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

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

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

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

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

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

334 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in
 335 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of
 336 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and
 337 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the
 338 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the
 339 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently
 340 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's
 341 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be
 342 brought before the court for a hearing at which the court may impose any other disposition authorized by this
 343 section. The court shall review such placements at 30-day intervals;

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

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

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

363 Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section

364 is guilty of a violation of § 46.2-301.

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

368 ~~10.~~ 9. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual
369 damages or loss caused by the offense for which the juvenile was found to be delinquent;

370 ~~11.~~ 10. Require the juvenile to participate in a public service project under such conditions as the court
371 prescribes;

372 ~~12.~~ 11. In case of traffic violations, impose only those penalties that are authorized to be imposed on
373 adults for such violations. However, for those violations punishable by confinement if committed by an adult,
374 confinement shall be imposed only as authorized by this title;

375 ~~13.~~ 12. Transfer legal custody to any of the following:

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

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

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

399 ~~14.~~ 13. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and
400 his attorney or other legal representative, upon consideration of the results of an investigation completed
401 pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11
402 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of §
403 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
404 if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and
405 the juvenile has previously been found to be delinquent based on an offense that would be a felony if
406 committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and
407 the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1
408 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or
409 scheme;

410 ~~15.~~ 14. Impose the penalty authorized by § 16.1-284;

411 ~~16.~~ 15. Impose the penalty authorized by § 16.1-284.1;

412 ~~17.~~ 16. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and
413 his attorney or other legal representative, upon consideration of the results of an investigation completed
414 pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

415 ~~18.~~ 17. Impose the penalty authorized by § 16.1-278.9; or

416 ~~19.~~ 18. Require the juvenile to participate in a gang-activity prevention program including, but not limited
417 to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if
418 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,
419 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,
420 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

421 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
422 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
423 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1,
424 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,

425 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court
 426 shall further require the juvenile to participate in a community service project under such conditions as the
 427 court prescribes.

428 C. [~~The~~ Except for a fine, fee, or cost imposed in a case of a traffic violation pursuant to subdivision A
 429 11, the] court shall not impose any fine, fee, or cost on any juvenile or his parent or other persons
 430 responsible for his care.

431 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses;**
 432 **truancy.**

433 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time
 434 of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of
 435 any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation
 436 of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor
 437 violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (v) the
 438 unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking
 439 or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public
 440 intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use
 441 or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a violation of § 18.2-
 442 83, the court shall order, in addition to any other penalty that it may impose as provided by law for the
 443 offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section,
 444 if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years
 445 of age or younger, the court shall *not* impose the additional fine ~~and~~ but shall order community service as
 446 provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the
 447 denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,
 448 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of
 449 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation
 450 designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months
 451 unless the offense is committed by a child under the age of 16 years and three months, in which case the
 452 child's ability to apply for a driver's license shall be delayed for a period of six months following the date he
 453 reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or
 454 (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a
 455 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the
 456 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the
 457 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions
 458 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of
 459 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession
 460 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding
 461 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in
 462 which case the denial of driving privileges shall be for a period of two years unless the offense is committed
 463 by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's
 464 license shall be delayed for a period of two years following the date he reaches the age of 16 and three
 465 months.

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

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

475 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of §
 476 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the
 477 juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until
 478 the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

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

482 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which
 483 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was
 484 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.
 485 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record

486 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other
 487 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding
 488 results in an adjudication of guilt pursuant to subsection F.

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

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

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

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

516 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,
 517 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has
 518 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if
 519 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge
 520 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be
 521 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying
 522 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in
 523 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)
 524 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
 525 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second
 526 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this
 527 subsection but shall be disposed of under § 16.1-278.8.

528 **§ 16.1-284. When adult sentenced for juvenile offense.**

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

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

539 **§ 16.1-284.1. Placement in secure local facility.**

540 A. If a juvenile 14 years of age or older is found to have committed an offense which if committed by an
 541 adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and
 542 the court determines (i) that the juvenile has not previously been and is not currently adjudicated delinquent
 543 of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that the juvenile has not been
 544 released from the custody of the Department within the previous 18 months, (iii) that the interests of the
 545 juvenile and the community require that the juvenile be placed under legal restraint or discipline, and (iv) that
 546 other placements authorized by this title will not serve the best interests of the juvenile, then the court may

547 order the juvenile confined in a detention home or other secure facility for juveniles for a period not to exceed
548 six months from the date the order is entered, for a single offense or multiple offenses. However, if the single
549 offense or multiple offenses, which if committed by an adult would be punishable as a felony or a Class 1
550 misdemeanor, caused the death of any person, then the court may order the juvenile confined in a detention
551 home or other secure facility for juveniles for a period not to exceed 12 months from the date the order is
552 entered.

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

555 B. If the period of confinement in a detention home or other secure facility for juveniles is to exceed 30
556 calendar days, and the juvenile is eligible for commitment pursuant to subdivision A 44 13 of § 16.1-278.8,
557 then the court shall order the juvenile committed to the Department, but suspend such commitment. In
558 suspending the commitment to the Department as provided for in this subsection, the court shall specify
559 conditions for the juvenile's satisfactory completion of one or more community or facility based treatment
560 programs as may be appropriate for the juvenile's rehabilitation.

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

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

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

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

591 **§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.**

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

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

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

607 **§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

608 A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents or (ii)

609 a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained by his
 610 parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and 20-108.2, or the
 611 Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, shall order the
 612 parents to pay support to the Department of Social Services. If the parents fail or refuse to pay such support,
 613 the court may proceed against them for contempt, or the order may be filed and shall have the effect of a civil
 614 judgment. The provisions of this subsection shall not apply to a juvenile who is committed to the Department
 615 pursuant to subdivision A ~~14~~ 13 or A ~~17~~ 16 of § 16.1-278.8.

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

618 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the
 619 parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and 63.2-
 620 1910.

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

626 **§ 16.1-290.1. Payment for court-ordered counseling, treatment, or programs.**

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

631 **§ 16.1-292. Violation of court order by any person.**

632 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through 16.1-
 633 278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of § 16.1-
 634 278.8, may be proceeded against (i) by an order requiring the person to show cause why the order of the court
 635 entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with, (ii) for contempt of court
 636 pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as otherwise
 637 expressly provided herein, nothing in this chapter shall deprive the court of its power to punish summarily for
 638 contempt for such acts as set forth in § 18.2-456, or to punish for contempt after notice and an opportunity for
 639 a hearing on the contempt except that confinement in the case of a juvenile shall be in a secure facility for
 640 juveniles rather than in jail and shall not exceed a period of seven days for each offense. However, if the
 641 person violating the order was a juvenile at the time of the original act and is 18 years of age or older when
 642 the court enters a disposition for violation of the order, the judge may order confinement in jail. If a juvenile
 643 is found to have violated a court order as a status offender, any order of disposition of such violation
 644 confining the juvenile in a secure facility for juveniles shall (a) identify the valid court order that has been
 645 violated; (b) specify the factual basis for determining that there is reasonable cause to believe that the juvenile
 646 has violated such order; (c) state the findings of fact that support a determination that there is no appropriate
 647 less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the
 648 best interest of the juvenile; (d) specify the length of time of such confinement, not to exceed seven days; and
 649 (e) include a plan for the juvenile's release from such facility. Such order of confinement shall not be renewed
 650 or extended.

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

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

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

669 E. In the event that a child in need of supervision is found to have willfully and materially violated an

670 order of the court pursuant to § 16.1-278.5, the court may enter any of the following orders of disposition:

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

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

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

694 **§ 16.1-293.1. Mental health services transition plan.**

695 A. The Board of Juvenile Justice, after consultation with the Department of Behavioral Health and
696 Developmental Services, shall promulgate regulations for the planning and provision of post-release services
697 for persons committed to the Department of Juvenile Justice pursuant to subdivision A 44 13 of § 16.1-278.8
698 or placed in a postdispositional detention program pursuant to subsection B of § 16.1-284.1 and identified as
699 having a recognized mental health, substance abuse, or other therapeutic treatment need. The plan shall be in
700 writing and completed prior to the person's release. The purpose of the plan shall be to ensure continuity of
701 necessary treatment and services.

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

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

711 **§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

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

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

719 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision A 8, 9,
720 ~~10, 12, 11, 13, or 14; or 15~~ of § 16.1-278.8.

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

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

723 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a spouse,
724 parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order disposing of a
725 motion to reconsider relating to participation in continuing programs pursuant to § 16.1-289.1, (iii) a
726 protective order in cases of family abuse issued pursuant to § 16.1-279.1, including a protective order
727 required by § 16.1-253.2, or a protective order entered in conjunction with a disposition pursuant to § 16.1-
728 278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, 16.1-278.8, or 16.1-278.14, (iv) a protective order issued pursuant
729 to § 19.2-152.10, including a protective order required by § 18.2-60.4, or (v) an order pertaining to the
730 custody, visitation, or placement of a minor child, unless so ordered by the judge of a circuit court or directed

731 in a writ of supersedeas by the Court of Appeals or the Supreme Court.

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

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

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

743 **§ 16.1-309.1. Exception as to confidentiality.**

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

750 B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute
751 a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility
752 pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice
753 to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit,
754 may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to
755 authorize public release of the juvenile's name, age, physical description and photograph, the charge for
756 which he is sought or for which he was adjudicated and any other information which may expedite his
757 apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release
758 of this information to the public. If a juvenile charged with a delinquent act that would constitute a felony if
759 committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant
760 to such charge becomes a fugitive from justice at a time when the court is not in session, the
761 Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may,
762 with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age,
763 physical description and photograph, the charge for which he is sought, and any other information which may
764 expedite his apprehension.

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

778 2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a fugitive
779 from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision A
780 44 13 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by
781 or under contract with the Department or from the custody of any employee of such facility, the Department
782 may release to the public the juvenile's name, age, physical description and photograph, the charge for which
783 he is sought or for which he was committed, and any other information which may expedite his apprehension.
784 The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the
785 juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in
786 clause (i) being held after disposition in a secure facility not operated by or under contract with the
787 Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which
788 the facility is located may release the information as provided in this subdivision.

789 C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a criminal
790 violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony
791 violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in

792 subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public
793 interest requires, make the juvenile's name and address available to the public.

794 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a misdemeanor
795 violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5 if committed by
796 an adult, the court may order that such victim be informed of the charge or charges brought, the findings of
797 the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-
798 11.01.

799 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to §
800 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been terminated,
801 or (iii) there has not been a judicial determination that the order is void ab initio.

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

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

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

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

829 **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition; disclosure**
830 **of information; penalty.**

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

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

850 C. Any county or city in the Commonwealth may by action of its governing body establish a SHOCAP
851 committee. The committee shall consist of representatives from local law enforcement, schools, attorneys for
852 the Commonwealth, juvenile court services, juvenile detention centers or group homes, mental and medical

853 health agencies, state and local children and family service agencies, and the Department of Juvenile Justice.
 854 Any county or city which establishes a SHOCAP committee shall, within 45 days of such action, notify the
 855 Department of Criminal Justice Services. The Department shall issue statewide SHOCAP guidelines and
 856 provide technical assistance to local jurisdictions on implementation of SHOCAP.

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

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

871 The provisions of this article authorizing information sharing between and among SHOCAP committees
 872 shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11 of this title
 873 governing dissemination of court and law-enforcement records concerning juveniles, (ii) Article 5 (§ 22.1-
 874 287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title 37.2 and any regulations
 875 enacted pursuant thereto governing access to juvenile mental health records, and (iv) Title 63.2 and any
 876 regulations enacted pursuant thereto governing access to records concerning treatments or services provided
 877 to a juvenile.

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

882 **§ 17.1-275.5. Amounts to be added; judgment in favor of the Commonwealth.**

883 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,
 884 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
 885 following costs:

- 886 1. Any amount paid by the Commonwealth for legal representation of the defendant;
- 887 2. Any amount paid for trial transcripts;
- 888 3. Extradition costs;
- 889 4. Costs of psychiatric evaluation;
- 890 5. Costs taxed against the defendant as appellant under Rule 5A:30 of the Rules of the Supreme Court;
- 891 6. Any fee for a returned check or disallowed credit card charge assessed pursuant to subdivision A 28 of
 892 § 17.1-275;
- 893 7. Any jury costs;
- 894 8. Any assessment made pursuant to subdivision A 10 of § 17.1-275;
- 895 9. Any fees prescribed in §§ 18.2-268.8 and 46.2-341.26:8;
- 896 10. Any court costs related to an ignition interlock device;
- 897 11. Any fee for testing for HIV;
- 898 12. Any fee for processing an individual admitted to jail as prescribed in § 15.2-1613.1;
- 899 13. Any fee for courthouse security personnel as prescribed in § 53.1-120;
- 900 14. Any fee for a DNA sample as prescribed in § 19.2-310.2;
- 901 15. Reimbursement to the Commonwealth of medical fees as prescribed in § 19.2-165.1;
- 902 16. Any fee for a local criminal justice training academy as prescribed in § 9.1-106;
- 903 17. Any fee prescribed by §§ 16.1-69.48:1.01 and 17.1-275.11;
- 904 18. Any expenses charged pursuant to subsection B or F of § 19.2-187.1; and
- 905 19. Any fee for an electronic summons system as prescribed in § 17.1-279.1.

906 B. The total amount of assessments described in subsection A, including (i) the fees provided for by §
 907 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
 908 , 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
 909 against the defendant in favor of the Commonwealth in accordance with § 8.01-446.

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

912 **§ 18.2-246.13. Civil penalties; penalties.**

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

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

917 B. Any prospective consumer who knowingly submits a false certification under subdivision A 1 of §
918 18.2-246.8 shall be subject to a civil penalty of no more than \$5,000 for each such offense.

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

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

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

926 F. Any person who knowingly and with the intent to defraud, mislead, or deceive makes a statement filed
927 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
928 filed statement containing one or more false statements shall constitute a separate offense.

929 G. Any person who fails to make the report required by subsection B of § 18.2-246.11 is guilty of a Class
930 1 misdemeanor and for any second or subsequent offense is guilty of a violation of § 18.2-498.3.

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

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

938 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor products,**
939 **alternative nicotine products, and hemp products intended for smoking by a person under 21 years of**
940 **age or sale of tobacco products, nicotine vapor products, alternative nicotine products, and hemp**
941 **products intended for smoking to persons under 21 years of age; civil penalties.**

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

945 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products intended for
946 smoking may be sold from a vending machine only if the machine is (i) posted with a notice, in a
947 conspicuous manner and place, indicating that the purchase or possession of such products by persons under
948 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is not
949 generally accessible to persons under 21 years of age. An establishment that prohibits the presence of persons
950 under 21 years of age unless accompanied by a person 21 years of age or older is not open to the general
951 public.

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

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

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

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

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

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

990 A violation of subsection A or C by an individual or by a separate retail establishment that involves the
 991 sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first
 992 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount of
 993 \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it has
 994 trained its employees concerning the requirements of this section, the court shall suspend all of the penalties
 995 imposed hereunder. However, where the court finds that a retail establishment has failed to so train its
 996 employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties imposed
 997 hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative nicotine
 998 product, hemp product intended for smoking, or tobacco product other than a bidi.

999 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation and a
 1000 civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative to the
 1001 civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of community
 1002 service for a first violation of subsection B and up to 40 hours of community service for a second or
 1003 subsequent violation. If the defendant fails or refuses to complete the community service as prescribed, the
 1004 court may impose the civil penalty. Upon a violation of subsection B, the judge may enter an order pursuant
 1005 to subdivision A 9 8 of § 16.1-278.8.

1006 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred may
 1007 bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-enforcement
 1008 officer may issue a summons for a violation of subsection A, B, or C.

1009 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages provided
 1010 by the manufacturer, with the required health warning. The proprietor of every retail establishment that offers
 1011 for sale any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended
 1012 for smoking shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco
 1013 products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking to
 1014 any person under 21 years of age is prohibited by law. Any attorney for the county, city, or town in which an
 1015 alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil
 1016 penalty not to exceed \$500. The civil penalty shall be paid into the local treasury. No filing fee or other fee or
 1017 cost shall be charged to the county, city, or town which instituted the action.

1018 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health Services
 1019 Administration published at 61 Federal Register 1492, the Department of Agriculture and Consumer Services
 1020 may promulgate regulations which allow the Department to undertake the activities necessary to comply with
 1021 such regulations.

1022 3. Any attorney for the county, city, or town in which an alleged violation of this subsection occurred may
 1023 enforce this subsection by civil action to recover a civil penalty not to exceed \$500. The civil penalty shall be
 1024 paid into the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town
 1025 which instituted the action.

1026 G. Nothing in this section shall be construed to create a private cause of action.

1027 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105 may
 1028 issue a summons for any violation of this section.

1029 I. As used in this section:

1030 "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for
 1031 human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative
 1032 nicotine product" does not include any nicotine vapor product, tobacco product, or product regulated as a
 1033 drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21 U.S.C. § 351 et seq.)
 1034 of the Federal Food, Drug, and Cosmetic Act.

1035 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros melanoxylon) or

1036 tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as a bidi
1037 or beedie.

1038 "Hemp product" means the same as that term is defined in § 3.2-4112.

1039 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating
1040 element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of
1041 shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Nicotine vapor
1042 product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar
1043 product or device and any cartridge or other container of nicotine in a solution or other form that is intended
1044 to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar
1045 product or device. "Nicotine vapor product" does not include any product regulated by the FDA under
1046 Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

1047 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
1048 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor product,
1049 alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C. § 351 et
1050 seq.) of the Federal Food, Drug, and Cosmetic Act.

1051 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for smoking
1052 in a manner similar to a cigarette or cigar.

1053 *J. No fine, fee, cost, or civil penalty shall be assessed against a juvenile or his parents or other persons*
1054 *responsible for his care for violation of this section. However, a court may order such juvenile to perform*
1055 *community service as prescribed in subsection E.*

1056 **§ 19.2-159. Determination of indigency; guidelines; statement of indigence; appointment of counsel.**

1057 A. If the accused shall claim that he is indigent, and the charge against him is a criminal offense that may
1058 be punishable by confinement in the state correctional facility or jail, subject to the provisions of § 19.2-160,
1059 the court shall determine from oral examination of the accused or other competent evidence whether or not
1060 the accused is indigent within the contemplation of law pursuant to the guidelines set forth in this section.

1061 B. In making its finding, the court shall determine whether or not the accused is a current recipient of a
1062 state or federally funded public assistance program for the indigent. If the accused is a current recipient of
1063 such a program and does not waive his right to counsel or retain counsel on his own behalf, he shall be
1064 presumed eligible for the appointment of counsel. This presumption shall be rebuttable where the court finds
1065 that a more thorough examination of the financial resources of the defendant is necessary. If the accused shall
1066 claim to be indigent and is not presumptively eligible under the provisions of this section, then a thorough
1067 examination of the financial resources of the accused shall be made with consideration given to the
1068 following:

1069 1. The net income of the accused, which shall include his total salary and wages minus deductions
1070 required by law. The court also shall take into account income and amenities from other sources including but
1071 not limited to social security funds, union funds, veteran's benefits, other regular support from an absent
1072 family member, public or private employee pensions, dividends, interests, rents, estates, trusts, or gifts.

1073 2. All assets of the accused which are convertible into cash within a reasonable period of time without
1074 causing substantial hardship or jeopardizing the ability of the accused to maintain home and employment.
1075 Assets shall include all cash on hand as well as in checking and savings accounts, stocks, bonds, certificates
1076 of deposit, and tax refunds. All personal property owned by the accused which is readily convertible into cash
1077 shall be considered, except property exempt from attachment. Any real estate owned by the accused shall be
1078 considered in terms of the amounts which could be raised by a loan on the property. For purposes of
1079 eligibility determination, the income, assets, and expenses of the spouse, if any, who is a member of the
1080 accused's household, shall be considered, unless the spouse was the victim of the offense or offenses
1081 allegedly committed by the accused.

1082 3. Any exceptional expenses of the accused and his family which would, in all probability, prohibit him
1083 from being able to secure private counsel. Such items shall include but not be limited to costs for medical
1084 care, family support obligations, and child care payments.

1085 The available funds of the accused shall be calculated as the sum of his total income and assets less the
1086 exceptional expenses as provided in the first paragraph of this subdivision 3. If the accused does not waive
1087 his right to counsel or retain counsel on his own behalf, counsel shall be appointed for the accused if his
1088 available funds are equal to or below 125 percent of the federal poverty income guidelines prescribed for the
1089 size of the household of the accused by the federal Department of Health and Human Services. The Supreme
1090 Court of Virginia shall be responsible for distributing to all courts the annual updates of the federal poverty
1091 income guidelines made by the Department.

1092 If the available funds of the accused exceed 125 percent of the federal poverty income guidelines and the
1093 accused fails to employ counsel and does not waive his right to counsel, the court may, in exceptional
1094 circumstances, and where the ends of justice so require, appoint an attorney to represent the accused.
1095 However, in making such appointments, the court shall state in writing its reasons for so doing. The written
1096 statement by the court shall be included in the permanent record of the case.

1097 C. If the court determines that the accused is indigent as contemplated by law pursuant to the guidelines

1098 set forth in this section, the court shall provide the accused with a statement which shall contain the
1099 following:

1100 "I have been advised this _____ day of _____, 20___, by the (name of court) court of my right to
1101 representation by counsel in the trial of the charge pending against me; I certify that I am without means to
1102 employ counsel and I hereby request the court to appoint counsel for me."

1103 _____ (signature of accused)

1104 The court shall also require the accused to complete a written financial statement to support the claim of
1105 indigency and to permit the court to determine whether or not the accused is indigent within the
1106 contemplation of law. The accused shall execute the said statements under oath, and the said court shall
1107 appoint competent counsel to represent the accused in the proceeding against him, including an appeal, if any,
1108 until relieved or replaced by other counsel.

1109 The executed statements by the accused and the order of appointment of counsel shall be filed with and
1110 become a part of the record of such proceeding.

1111 All other instances in which the appointment of counsel is required for an indigent shall be made in
1112 accordance with the guidelines prescribed in this section.

1113 D. Except in jurisdictions having a public defender, or unless (i) the public defender is unable to represent
1114 the defendant by reason of conflict of interest or (ii) the court finds that appointment of other counsel is
1115 necessary to attain the ends of justice, counsel appointed by the court for representation of the accused shall
1116 be selected by a fair system of rotation among members of the bar practicing before the court whose names
1117 are on the list maintained by the Indigent Defense Commission pursuant to § 19.2-163.01. If no attorney who
1118 is on the list maintained by the Indigent Defense Commission is reasonably available, the court may appoint
1119 as counsel an attorney not on the list who has otherwise demonstrated to the court's satisfaction an
1120 appropriate level of training and experience. The court shall provide notice to the Commission of the
1121 appointment of the attorney.

1122 *E. No juvenile shall have fees or costs assessed against him or his parents or other persons responsible
1123 for his care for any amount paid by the Commonwealth for legal representation for a case involving any
1124 offense, except those offenses under Title 46.2.*

1125 **§ 19.2-163. Compensation of court-appointed counsel.**

1126 Upon submission to the court, for which appointed representation is provided, of a detailed accounting of
1127 the time expended for that representation, made within 30 days of the completion of all proceedings in that
1128 court, counsel appointed to represent an indigent accused in a criminal case shall be compensated for his
1129 services on an hourly basis at a rate set by the Supreme Court of Virginia in a total amount not to exceed the
1130 amounts specified in the following schedule:

1131 1. In a district court, a sum not to exceed \$120, provided that, notwithstanding the foregoing limitation,
1132 the court in its discretion, and subject to guidelines issued by the Executive Secretary of the Supreme Court
1133 of Virginia, may waive the limitation of fees up to (i) an additional \$120 when the effort expended, the time
1134 reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other
1135 circumstances warrant such a waiver; or (ii) an amount up to \$650 to defend, in the case of a juvenile, an
1136 offense that would be a felony if committed by an adult that may be punishable by confinement in the state
1137 correctional facility for a period of more than 20 years, or a charge of violation of probation for such offense,
1138 when the effort expended, the time reasonably necessary for the particular representation, the novelty and
1139 difficulty of the issues, or other circumstances warrant such a waiver; or (iii) such other amount as may be
1140 provided by law. Such amount shall be allowed in any case wherein counsel conducts the defense of a single
1141 charge against the indigent through to its conclusion or a charge of violation of probation at any hearing
1142 conducted under § 19.2-306; thereafter, compensation for additional charges against the same accused also
1143 conducted by the same counsel shall be allowed on the basis of additional time expended as to such
1144 additional charges;

1145 2. In a circuit court (i) to defend a Class 1 felony charge, compensation for each appointed attorney in an
1146 amount deemed reasonable by the court; (ii) to defend a felony charge that may be punishable by
1147 confinement in the state correctional facility for a period of more than 20 years, or a charge of violation of
1148 probation for such offense, a sum not to exceed \$1,235, provided that, notwithstanding the foregoing
1149 limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of the
1150 Supreme Court of Virginia, may waive the limitation of fees up to an additional \$850 when the effort
1151 expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the
1152 issues, or other circumstances warrant such a waiver; (iii) to defend any other felony charge, or a charge of
1153 violation of probation for such offense, a sum not to exceed \$445, provided that, notwithstanding the
1154 foregoing limitation, the court in its discretion, and subject to guidelines issued by the Executive Secretary of
1155 the Supreme Court of Virginia, may waive the limitation of fees up to an additional \$155 when the effort
1156 expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the
1157 issues, or other circumstances warrant such a waiver; and (iv) in the circuit court only, to defend any
1158 misdemeanor charge punishable by confinement in jail or a charge of violation of probation for such offense,

1159 a sum not to exceed \$158. In the event any case is required to be retried due to a mistrial for any cause or
1160 reversed on appeal, the court may allow an additional fee for each case in an amount not to exceed the
1161 amounts allowable in the initial trial. In the event counsel is appointed to defend an indigent charged with a
1162 felony that is punishable as a Class 1 felony, each attorney appointed shall continue to receive compensation
1163 as provided in this paragraph for defending such a felony, regardless of whether the charge is reduced or
1164 amended to a lesser felony, prior to final disposition of the case. In the event counsel is appointed to defend
1165 an indigent charged with any other felony, such counsel shall receive compensation as provided in this
1166 paragraph for defending such a felony, regardless of whether the charge is reduced or amended to a
1167 misdemeanor or lesser felony prior to final disposition of the case in either the district court or circuit court.

1168 Counsel appointed to represent an indigent accused in a criminal case, who are not public defenders, may
1169 request an additional waiver exceeding the amounts provided for in this section. The request for any
1170 additional amount shall be submitted to the presiding judge, in writing, with a detailed accounting of the time
1171 spent and the justification for the additional amount. The presiding judge shall determine, subject to
1172 guidelines issued by the Executive Secretary of the Supreme Court of Virginia, whether the request for an
1173 additional amount is justified in whole or in part, by considering the effort expended and the time reasonably
1174 necessary for the particular representation, and, if so, shall forward the request as approved to the chief judge
1175 of the circuit court or district court for approval. If the presiding judge determines that the request for an
1176 additional amount is not justified in whole or in part, such presiding judge shall provide to the requesting
1177 attorney, in writing, the reasons for such determination and shall, if such request has been approved in part,
1178 include a copy of such writing when forwarding the request as approved to the chief judge of the circuit court
1179 or district court for approval. If the chief judge of the circuit court or district court, upon review of the request
1180 as approved, determines, subject to the guidelines issued by the Executive Secretary of the Supreme Court of
1181 Virginia, that any part of the request for an additional amount is not justified, such chief judge shall provide
1182 to the requesting attorney and to the presiding judge, in writing, the reason for such determination.

1183 If at any time the funds appropriated to pay for waivers under this section become insufficient, the
1184 Executive Secretary of the Supreme Court of Virginia shall so certify to the courts and no further waivers
1185 shall be approved.

1186 The circuit or district court shall direct the payment of such reasonable expenses incurred by such court-
1187 appointed counsel as it deems appropriate under the circumstances of the case. Counsel appointed by the
1188 court to represent an indigent charged with repeated violations of the same section of the Code of Virginia,
1189 with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated
1190 in an amount not to exceed the fee prescribed for the defense of a single charge; if such offenses are tried as
1191 part of the same judicial proceeding. The trial judge shall consider any guidelines established by the Supreme
1192 Court but shall have the sole discretion to fix the amount of compensation to be paid counsel appointed by the
1193 court to defend a felony charge that is punishable as a Class 1 felony.

1194 The circuit or district court shall direct that the foregoing payments shall be paid out by the
1195 Commonwealth; if the defendant is charged with a violation of a statute, or by the county, city, or town; if the
1196 defendant is charged with a violation of a county, city, or town ordinance, to the attorney so appointed to
1197 defend such person as compensation for such defense.

1198 Counsel representing a defendant charged with a Class 1 felony may submit to the court, on a monthly
1199 basis, a statement of all costs incurred and fees charged by him in the case during that month. Whenever the
1200 total charges as are deemed reasonable by the court for which payment has not previously been made or
1201 requested exceed \$1,000, the court may direct that payment be made as otherwise provided in this section.

1202 When such directive is entered upon the order book of the court, the Commonwealth, county, city, or
1203 town, as the case may be, shall provide for the payment out of its treasury of the sum of money so specified.
1204 If the defendant is convicted, the amount allowed by the court to the attorney appointed to defend him shall
1205 be taxed against the defendant as a part of the costs of prosecution and, if collected, the same shall be paid to
1206 the Commonwealth, or the county, city, or town, as the case may be. In the event that counsel for the
1207 defendant requests a waiver of the limitations on compensation, the court shall assess against the defendant
1208 an amount equal to the pre-waiver compensation limit specified in this section for each charge for which the
1209 defendant was convicted. *No such amount allowed by the court to the attorney appointed to defend a juvenile*
1210 *shall be taxed against him or his parents or other persons responsible for his care as part of the costs of*
1211 *prosecution of any offense, except those offenses under Title 46.2.* An abstract of such costs shall be docketed
1212 in the judgment docket and execution lien book maintained by such court.

1213 Any statement submitted by an attorney for payments due him for indigent representation or for
1214 representation of a child pursuant to § 16.1-266 shall, after the submission of the statement, be forwarded
1215 forthwith by the clerk to the Commonwealth, county, city, or town, as the case may be, responsible for
1216 payment. *No such amount allowed by the court to the attorney appointed to defend a juvenile shall be taxed*
1217 *against him or his parents or other persons responsible for his care as part of the costs of prosecution of any*
1218 *offense, except those offenses under Title 46.2.*

1219 For the purposes of this section, the defense of a case may be considered conducted through to its

1220 conclusion and an appointed counsel entitled to compensation for his services in the event an indigent
 1221 accused fails to appear in court subject to a *capias* for his arrest or a show cause summons for his failure to
 1222 appear and remains a fugitive from justice for one year following the issuance of the *capias* or the summons
 1223 to show cause, and appointed counsel has appeared at a hearing on behalf of the accused.

1224 Effective July 1, 2007, the Executive Secretary of the Supreme Court of Virginia shall track and report the
 1225 number and category of offenses charged involving adult and juvenile offenders in cases in which court-
 1226 appointed counsel is assigned. The Executive Secretary shall also track and report the amounts paid by
 1227 waiver above the initial cap to court-appointed counsel. The Executive Secretary shall provide these reports
 1228 to the Governor, members of the House Committee on Appropriations, and members of the Senate
 1229 Committee on Finance and Appropriations on a quarterly basis.

1230 **§ 19.2-163.4:1. Taxation of convicted persons for representation costs.**

1231 In any case in which an attorney from a public defender office represents an indigent person charged with
 1232 an offense and such person is convicted, the sum that would have been allowed a court-appointed attorney as
 1233 compensation and as reasonable expenses shall be taxed against the person defended as a part of the costs of
 1234 the prosecution, and, if collected, shall be paid to the Commonwealth or, if payment was made to the
 1235 Commonwealth by a locality for defense of a local ordinance violation, to the appropriate county, city or
 1236 town. An abstract of such costs shall be docketed in the judgment lien docket and execution book of the
 1237 court. *This section shall not apply to a juvenile represented by a public defender office or his parents or other*
 1238 *persons responsible for his care for a case involving any offense other than those offenses under Title 46.2.*

1239 **§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by**
 1240 **electronic means in certain cases; records in office of Department; inspection; clerk's fee for reports.**

1241 A. In the event (i) a person is convicted of a charge described in subdivision A 1 or 2 of § 46.2-382 or §
 1242 46.2-382.1, (ii) a person forfeits bail or collateral or other deposit to secure the defendant's appearance on the
 1243 charges, unless the conviction has been set aside or the forfeiture vacated, (iii) a court assigns a defendant to a
 1244 driver education program or alcohol treatment or rehabilitation program, or both such programs, as
 1245 authorized by § 18.2-271.1, (iv) compliance with the court's probation order is accepted by the court in lieu of
 1246 a conviction under § 18.2-266 or the requirements specified in § 18.2-271 as provided in § 18.2-271.1, or (v)
 1247 there is rendered a judgment for damages against a person as described in § 46.2-382, every district court or
 1248 clerk of a circuit court shall forward an abstract of the record to the Commissioner within 18 days after such
 1249 conviction, forfeiture, assignment, or acceptance, and in the case of civil judgments, on the request of the
 1250 judgment creditor or his attorney, within 30 days after judgment has become final. No abstract of the record
 1251 in a district court shall be forwarded to the Commissioner unless the period allowed for an appeal has elapsed
 1252 and no appeal has been perfected. On or after July 1, 2013, in the event that a conviction or adjudication has
 1253 been nullified by separate order of the court, the clerk shall forward to the Commissioner an abstract of that
 1254 record.

1255 B. Abstract data of conviction may be furnished to the Commissioner by electronic means provided that
 1256 the content of the abstract and the certification complies with the requirements of § 46.2-386. In cases where
 1257 the abstract data is furnished by electronic means, the paper abstract shall not be required to be forwarded to
 1258 the Commissioner. The Commissioner shall develop a method to ensure that all data is received accurately.
 1259 The Commissioner, with the approval of the Governor, may destroy the record of any conviction, forfeiture,
 1260 assignment, acceptance, or judgment, when three years has elapsed from the date thereof, except records of
 1261 conviction or forfeiture on charges of reckless driving and speeding, which records may be destroyed when
 1262 five years has elapsed from the date thereof, and further excepting those records that alone, or in connection
 1263 with other records, will require suspension or revocation or disqualification of a license or registration under
 1264 any applicable provisions of this title.

1265 C. The records required to be kept may, in the discretion of the Commissioner, be kept by electronic
 1266 media or by photographic processes and when so done the abstract of the record may be destroyed.

1267 D. The Code section and description of an offense referenced in an abstract for any juvenile adjudication
 1268 obtained from a district court or clerk of circuit court pursuant to subdivision A 9 8 of § 16.1-278.8, § 16.1-
 1269 278.9, clause (iii) of subdivision A 1 of § 46.2-382, or any other provision of law that does not involve an
 1270 offense referenced in subsection A or an offense involving the operation of a motor vehicle shall be available
 1271 only to the person himself, his parent or guardian, law-enforcement officers, attorneys for the
 1272 Commonwealth, and courts.

1273 **§ 46.2-808.2. Violations committed within highway safety corridor; report on benefits.**

1274 Notwithstanding any other provision of law, the fine for any moving violation of any provision of this
 1275 chapter while operating a motor vehicle in a designated highway safety corridor pursuant to § 33.2-253 shall
 1276 be no more than \$500 for any violation that is a traffic infraction and not less than \$200 for any violation that
 1277 is a criminal offense. *If a juvenile commits a criminal offense pursuant to this section, such fine shall not be*
 1278 *imposed.* The otherwise applicable fines set forth in Rule 3B:2 of the Rules of the Supreme Court shall be
 1279 doubled in the case of a waiver of appearance and a plea of guilty under § 16.1-69.40:1 or 19.2-254.2 for a
 1280 violation of a provision of this chapter while operating a motor vehicle in a designated highway safety

1281 corridor pursuant to § 33.2-253. The Commissioner of Highways shall report, on an annual basis, statistical
1282 data related to benefits derived from the designation of such highway safety corridors. This information may
1283 be posted on the Virginia Department of Transportation's official website. Notwithstanding the provisions of
1284 § 46.2-1300, the governing bodies of counties, cities, and towns may not adopt ordinances providing for
1285 penalties under this section.

1286 **§ 63.2-100. Definitions.**

1287 As used in this title, unless the context requires a different meaning:

1288 "Abused or neglected child" means any child less than 18 years of age:

1289 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict,
1290 or allows to be created or inflicted upon such child a physical or mental injury by other than accidental
1291 means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions,
1292 including, but not limited to, a child who is with his parent or other person responsible for his care either (i)
1293 during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the
1294 unlawful sale of such substance by that child's parents or other person responsible for his care, where such
1295 manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

1296 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
1297 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in
1298 accordance with the tenets and practices of a recognized church or religious denomination shall for that
1299 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
1300 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
1301 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition
1302 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
1303 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
1304 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
1305 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
1306 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
1307 No child whose parent or other person responsible for his care allows the child to engage in independent
1308 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
1309 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
1310 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
1311 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
1312 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
1313 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-
1314 278.4;

1315 3. Whose parents or other person responsible for his care abandons such child;

1316 4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person,
1317 commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation
1318 of the law;

1319 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
1320 physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

1321 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
1322 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in §
1323 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
1324 person responsible for his care knows has been convicted of an offense against a minor for which registration
1325 is required as a Tier III offender pursuant to § 9.1-902; or

1326 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the
1327 Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims of
1328 Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

1329 If a civil proceeding under this title is based solely on the parent having left the child at a hospital or
1330 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the
1331 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an
1332 attended emergency medical services agency that employs emergency medical services providers, or (iii) a
1333 newborn safety device located at and operated by such hospital or emergency medical services agency. For
1334 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find
1335 such a child is a neglected child upon the ground of abandonment.

1336 "Adoptive home" means any family home selected and approved by a parent, local board or a licensed
1337 child-placing agency for the placement of a child with the intent of adoption.

1338 "Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing
1339 agency in an approved home for the purpose of adoption.

1340 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable
1341 confinement of an adult as defined in § 63.2-1603.

1342 "Adult day care center" means any facility that is either operated for profit or that desires licensure and

1343 that provides supplementary care and protection during only a part of the day to four or more adults who are
 1344 aged or infirm or who have disabilities and who reside elsewhere, except (i) a facility or portion of a facility
 1345 licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services,
 1346 and (ii) the home or residence of an individual who cares for only persons related to him by blood or
 1347 marriage. Included in this definition are any two or more places, establishments or institutions owned,
 1348 operated or controlled by a single entity and providing such supplementary care and protection to a combined
 1349 total of four or more adults who are aged or infirm or who have disabilities.

1350 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
 1351 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
 1352 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
 1353 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
 1354 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
 1355 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
 1356 possession, or control of an adult's financial resources or property through the use of undue influence,
 1357 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services
 1358 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or
 1359 defrauded into agreeing, to pay for such goods or services or to perform such services.

1360 "Adult foster care" means room and board, supervision, and special services to an adult who has a
 1361 physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.
 1362 "Adult foster care" does not include services or support provided to individuals through the Fostering Futures
 1363 program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

1364 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is
 1365 not able to provide for himself or is not being provided services necessary to maintain his physical and
 1366 mental health and that the failure to receive such necessary services impairs or threatens to impair his well-
 1367 being. However, no adult shall be considered neglected solely on the basis that such adult is receiving
 1368 religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that
 1369 such treatment or care is performed in good faith and in accordance with the religious practices of the adult
 1370 and there is a written or oral expression of consent by that adult.

1371 "Adult protective services" means services provided by the local department that are necessary to protect
 1372 an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

1373 "Assisted living care" means a level of service provided by an assisted living facility for adults who may
 1374 have physical or mental impairments and require at least a moderate level of assistance with activities of daily
 1375 living.

1376 "Assisted living facility" means any congregate residential setting that provides or coordinates personal
 1377 and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the
 1378 maintenance or care of four or more adults who are aged or infirm or who have disabilities and who are cared
 1379 for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of
 1380 Health or the Department of Behavioral Health and Developmental Services, but including any portion of
 1381 such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only
 1382 persons related to him by blood or marriage; (iii) a facility or portion of a facility serving individuals who are
 1383 infirm or who have disabilities between the ages of 18 and 21, or 22 if enrolled in an educational program for
 1384 individuals with disabilities pursuant to § 22.1-214, when such facility is licensed by the Department as a
 1385 children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility
 1386 not so licensed; and (iv) any housing project for individuals who are 62 years of age or older or individuals
 1387 with disabilities that provides no more than basic coordination of care services and is funded by the U.S.
 1388 Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia
 1389 Housing Development Authority. Included in this definition are any two or more places, establishments or
 1390 institutions owned or operated by a single entity and providing maintenance or care to a combined total of
 1391 four or more adults who are aged or infirm or who have disabilities. Maintenance or care means the
 1392 protection, general supervision and oversight of the physical and mental well-being of an individual who is
 1393 aged or infirm or who has a disability.

1394 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive
 1395 benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these
 1396 benefits except for excess income.

1397 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

1398 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
 1399 parent(s) by previous adoption.

1400 "Board" means the State Board of Social Services.

1401 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the Fostering
 1402 Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age and meets the
 1403 eligibility criteria set forth in § 63.2-919.

1404 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or

1405 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
1406 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
1407 parents with the process of delegating parental and legal custodial powers of their children pursuant to
1408 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such
1409 parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.
1410 Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
1411 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

1412 "Child-protective services" means the identification, receipt and immediate response to complaints and
1413 reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and
1414 arranging for and providing necessary protective and rehabilitative services for a child and his family when
1415 the child has been found to have been abused or neglected or is at risk of being abused or neglected.

1416 "Child support services" means any civil, criminal or administrative action taken by the Division of Child
1417 Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child
1418 support, or child and spousal support.

1419 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster
1420 home.

1421 "Children's residential facility" means any facility, child-caring institution, or group home that is
1422 maintained for the purpose of receiving children separated from their parents or guardians for full-time care,
1423 maintenance, protection and guidance, or for the purpose of providing independent living services to persons
1424 between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's
1425 residential facility shall not include:

1426 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return
1427 annually to the homes of their parents or guardians for not less than two months of summer vacation;

1428 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1429 3. A licensed or accredited hospital legally maintained as such.

1430 "Commissioner" means the Commissioner of the Department, his designee or authorized representative.

1431 "Department" means the State Department of Social Services.

1432 "Department of Health and Human Services" means the Department of Health and Human Services of the
1433 United States government or any department or agency thereof that may hereafter be designated as the agency
1434 to administer the Social Security Act, as amended.

1435 "Disposable income" means that part of the income due and payable of any individual remaining after the
1436 deduction of any amount required by law to be withheld.

1437 "Energy assistance" means benefits to assist low-income households with their home heating and cooling
1438 needs, including, but not limited to, purchase of materials or substances used for home heating, repair or
1439 replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling
1440 equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or
1441 provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home
1442 Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

1443 "Family and permanency team" means the group of individuals assembled by the local department to
1444 assist with determining planning and placement options for a child, which shall include, as appropriate, all
1445 biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to
1446 the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case
1447 of a child who is 14 years of age or older, the family and permanency team shall also include any members of
1448 the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

1449 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
1450 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with §
1451 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been the
1452 foster parents.

1453 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
1454 relationship with the child or his family.

1455 "Foster care placement" means placement of a child through (i) an agreement between the parents or
1456 guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment
1457 or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does
1458 not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et
1459 seq.) of Title 20.

1460 "Foster home" means a residence approved by a child-placing agency or local board in which any child,
1461 other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to
1462 delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has
1463 been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who
1464 exercises legal authority over the child on a continuous basis for at least 24 hours without compensation,
1465 resides as a member of the household.

1466 "General relief" means money payments and other forms of relief made to those persons mentioned in §

1467 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.
1468 "Independent foster home" means a private family home in which any child, other than a child by birth or
1469 adoption of such person, resides as a member of the household and has been placed therein independently of
1470 a child-placing agency except (i) a home in which are received only children related by birth or adoption of
1471 the person who maintains such home and children of personal friends of such person; (ii) a home in which is
1472 received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6
1473 of § 16.1-278.4, or subdivision A 12 of § 16.1-278.8; and (iii) a home in which are received only children
1474 who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of
1475 Title 20.
1476 "Independent living" means a planned program of services designed to assist a child age 16 and over and
1477 persons who are former foster care children or were formerly committed to the Department of Juvenile
1478 Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.
1479 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
1480 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
1481 or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the
1482 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
1483 living arrangement in which such child or person does not have daily substitute parental supervision.
1484 "Independent living services" means services and activities provided to a child in foster care 14 years of
1485 age or older who was committed or entrusted to a local board of social services, child welfare agency, or
1486 private child-placing agency. "Independent living services" may also mean services and activities provided to
1487 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
1488 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
1489 Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a
1490 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
1491 prior to placement in an independent living arrangement. Such services shall include counseling, education,
1492 housing, employment, and money management skills development, access to essential documents, and other
1493 appropriate services to help children or persons prepare for self-sufficiency.
1494 "Independent physician" means a physician who is chosen by the resident of the assisted living facility
1495 and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or
1496 employee or as an independent contractor with the residence.
1497 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care
1498 placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity
1499 authorized to make such placements in accordance with the laws of the foreign country under which it
1500 operates.
1501 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
1502 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the
1503 Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
1504 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action
1505 of any court.
1506 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.
1507 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance
1508 with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after acting as the
1509 child's foster parent.
1510 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
1511 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is
1512 intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of
1513 the child of the authority necessary to ensure the protection, education, care and control, and custody of the
1514 child and the authority for decision making for the child.
1515 "Local board" means the local board of social services representing one or more counties or cities.
1516 "Local department" means the local department of social services of any county or city in the
1517 Commonwealth.
1518 "Local director" means the director or his designated representative of the local department of the city or
1519 county.
1520 "Merit system plan" means those regulations adopted by the Board in the development and operation of a
1521 system of personnel administration meeting requirements of the federal Office of Personnel Management.
1522 "Parental placement" means locating or effecting the placement of a child or the placing of a child in a
1523 family home by the child's parent or legal guardian for the purpose of foster care or adoption.
1524 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the
1525 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
1526 care; and general relief.
1527 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to

1528 perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a
1529 home and community-based waiver program, including an independent physician contracting with the
1530 Department of Medical Assistance Services to complete the uniform assessment instrument for residents of
1531 assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance
1532 Services to perform nursing facility pre-admission screenings.

1533 "Qualified individual" means a trained professional or licensed clinician who is not an employee of the
1534 local board of social services or licensed child-placing agency that placed the child in a qualified residential
1535 treatment program and is not affiliated with any placement setting in which children are placed by such local
1536 board of social services or licensed child-placing agency.

1537 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
1538 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
1539 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
1540 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
1541 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
1542 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
1543 members, including efforts to maintain connections between the child and his siblings and other family;
1544 documents and maintains records of such outreach efforts; and maintains contact information for any known
1545 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,
1546 facilitates participation by family members in the child's treatment program before and after discharge and
1547 documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-
1548 based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. §
1549 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human
1550 Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of
1551 such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-
1552 appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
1553 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
1554 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
1555 qualified residential treatment program, that would provide the most effective and appropriate level of care
1556 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
1557 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-
1558 term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed
1559 with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or
1560 16.1-282.2.

1561 "Residential living care" means a level of service provided by an assisted living facility for adults who
1562 may have physical or mental impairments and require only minimal assistance with the activities of daily
1563 living. The definition of "residential living care" includes the services provided by independent living
1564 facilities that voluntarily become licensed.

1565 "Sibling" means each of two or more children having one or more parents in common.

1566 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic
1567 violence services, or any other services program implemented in accordance with regulations adopted by the
1568 Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of
1569 Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5
1570 provided by local departments of social services in accordance with regulations and under the supervision of
1571 the Commissioner for Aging and Rehabilitative Services.

1572 "Special order" means an order imposing an administrative sanction issued to any party licensed pursuant
1573 to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall
1574 be considered a case decision as defined in § 2.2-4001.

1575 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to
1576 eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance
1577 agreement developed in accordance with § 63.2-1306.

1578 "Supervised independent living setting" means the residence of a person 18 years of age or older who is
1579 participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where
1580 supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision.
1581 "Supervised independent living setting" does not include residential facilities or group homes.

1582 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
1583 Department through which a relative can receive monthly cash assistance for the support of his eligible
1584 children.

1585 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary
1586 Assistance for Needy Families program for families in which both natural or adoptive parents of a child
1587 reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW)
1588 participation under § 63.2-609.

1589 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security

1590 Act, as amended, and administered by the Department through which foster care is provided on behalf of
1591 qualifying children.

1592 **§ 66-14. Allowance for maintenance of children placed by Commonwealth in private homes, etc.**

1593 For the maintenance of each child committed to the custody of the Department pursuant to subdivision A
1594 ~~14~~ 13 of § 16.1-278.8 and placed in a private home or in a facility other than one operated by the
1595 Commonwealth, there shall be paid a per diem allowance which shall be established by the Department from
1596 funds appropriated to the Department for this purpose. The cost of such care shall not exceed that amount
1597 which would be incurred if the services required by the child were provided in a juvenile facility operated by
1598 the Department.

1599 No child shall be placed outside the Commonwealth without first complying with the appropriate
1600 provisions of Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2 or with regulations
1601 of the State Board of Social Services relating to resident children placed out of the Commonwealth.

ENGROSSED

HB1263E