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SENATE BILL NO. 747

Offered January 8, 2025

Prefiled November 18, 2024

A BILL to amend and reenact §§ 16.1-273 and 16.1-278.8 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-278.8:02, relating to juvenile and domestic relations district courts; mental health and social assessments.

Patron—Favola

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-273 and 16.1-278.8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-278.8:02 as follows:

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

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and; (ii) shall include a preliminary assessment by a qualified mental health professional, as defined in § 54.1-3500, for indicators of mental illness, developmental disability, or specific learning disability and a complete screening by a qualified mental health professional for such mental illness, developmental disability, or specific learning disability if such indicators are found to be present; and (iii) may, and for the purposes of subdivision A 14 or 17 of § 16.1-278.8 shall, include a social history of the physical, mental, and social conditions, including an assessment of any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if committed by an 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 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

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

§ 16.1-278.8. Delinquent juveniles.

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

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;
3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;
4. Defer disposition for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

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

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

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

65 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in
66 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of
67 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and
68 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the
69 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the
70 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently
71 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's
72 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be
73 brought before the court for a hearing at which the court may impose any other disposition authorized by this
74 section. The court shall review such placements at 30-day intervals;

75 7b. *Place the juvenile on probation and order treatment or services for mental illness or developmental*
76 *disability in a program licensed by the Department of Behavioral Health and Developmental Services for the*
77 *treatment of juveniles for mental illness or developmental disability, provided that (i) the juvenile has*
78 *received a screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates*
79 *that the commission of the offense was motivated by, or closely related to, mental illness or developmental*
80 *disability and indicates that the juvenile is in need of treatment or services for this condition and (ii) such*
81 *facility is available. The local community services board shall provide the court with a list of such licensed*
82 *and available programs. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of*
83 *participation in the program, he shall be brought before the court for a hearing at which the court may*
84 *impose any other disposition authorized by this section. The court shall review such placements at 30-day*
85 *intervals;*

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

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

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

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

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

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

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

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

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

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

120 b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law

121 to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent
122 juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the
123 Director; or

124 c. The local board of social services of the county or city in which the court has jurisdiction or, at the
125 discretion of the court, to the local board of the county or city in which the juvenile has residence if other
126 than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and
127 custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to
128 be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board
129 may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an
130 opportunity to be heard if the judge entering the placement order describes the emergency and the need for
131 such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a
132 juvenile to any local board of social services in the Commonwealth when such local board consents to the
133 commitment. The board to which the juvenile is committed shall have the final authority to determine the
134 appropriate placement for the juvenile. Nothing herein shall limit the authority of the court to review the
135 child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan
136 through a petition filed pursuant to subsection A of § 16.1-282. Any order authorizing removal from the
137 home and transferring legal custody of a juvenile to a local board of social services as provided in this
138 subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to
139 prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile,
140 and the order shall so state;

141 14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his
142 attorney or other legal representative, upon consideration of the results of an investigation completed
143 pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11
144 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of §
145 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
146 if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and
147 the juvenile has previously been found to be delinquent based on an offense that would be a felony if
148 committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and
149 the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1
150 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or
151 scheme;

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

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

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

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

158 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,
159 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if
160 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,
161 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,
162 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

163 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
164 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
165 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1,
166 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,
167 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court
168 shall further require the juvenile to participate in a community service project under such conditions as the
169 court prescribes.

170 **§ 16.1-278.8:02. Juveniles with specific learning disabilities and developmental disabilities.**

171 *If a juvenile, who is not committed to the Department, has received a screening and assessment pursuant*
172 *to § 16.1-273 and such screening and assessment reasonably indicates that the juvenile has a specific*
173 *learning disability, as defined in § 22.1-213, or a developmental disability, as defined in § 37.2-100, the court*
174 *shall provide information to the parent or legal guardian of such juvenile regarding the Parent Educational*
175 *Advocacy Training Center or a similar resource in their jurisdiction of residence.*