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SENATE BILL NO. 778

Offered January 8, 2025

Prefiled December 24, 2024

A BILL to amend and reenact §§ 16.1-228, 16.1-278.8, and 18.2-371 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-278.9:1, relating to juveniles; adjudication of delinquency.

Patron—Locke

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-278.8, and 18.2-371 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-278.9:1 as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

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

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

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

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

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

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

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

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the

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59 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an  
60 attended emergency medical services agency that employs emergency medical services personnel, or (iii) a  
61 newborn safety device located at and operated by such hospital or emergency medical services agency. For  
62 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find  
63 such a child is a neglected child upon the ground of abandonment.

64 "Adoptive home" means the place of residence of any natural person in which a child resides as a member  
65 of the household and in which he has been placed for the purposes of adoption or in which he has been  
66 legally adopted by another member of the household.

67 "Adult" means a person 18 years of age or older.

68 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the  
69 same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that  
70 would be a felony if committed by an adult.

71 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes  
72 of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger  
73 than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

74 "Child in need of services" means (i) a child whose behavior, conduct, or condition presents or results in a  
75 serious threat to the well-being and physical safety of the child ~~or~~; (ii) a child ~~under~~ *younger than* the age of  
76 14 whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical  
77 safety of another person; *or (iii) a child younger than 11 years of age who has committed a delinquent act;*  
78 however, no child who in good faith is under treatment solely by spiritual means through prayer in  
79 accordance with the tenets and practices of a recognized church or religious denomination shall for that  
80 reason alone be considered to be a child in need of services, nor shall any child who habitually remains away  
81 from or habitually deserts or abandons his family as a result of what the court or the local child protective  
82 services unit determines to be incidents of physical, emotional, or sexual abuse in the home be considered a  
83 child in need of services for that reason alone.

84 However, to find that a child falls within these provisions, (a) the conduct complained of must present a  
85 clear and substantial danger to the child's life or health or to the life or health of another person; (b) the child  
86 or his family is in need of treatment, rehabilitation, or services not presently being received; and (c) the  
87 intervention of the court is essential to provide the treatment, rehabilitation, or services needed by the child or  
88 his family.

89 "Child in need of supervision" means:

90 1. A child who, while subject to compulsory school attendance, is habitually and without justification  
91 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any  
92 and all educational services and programs that are required to be provided by law and which meet the child's  
93 particular educational needs, (ii) the school system from which the child is absent or other appropriate agency  
94 has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school  
95 system has provided documentation that it has complied with the provisions of § 22.1-258; or

96 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or  
97 placement authority, remains away from or deserts or abandons his family or lawful custodian on more than  
98 one occasion or escapes or remains away without proper authority from a residential care facility in which he  
99 has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or  
100 health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being  
101 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services  
102 needed by the child or his family.

103 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster home  
104 as defined in § 63.2-100.

105 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and  
106 domestic relations district court of each county or city.

107 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance  
108 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a  
109 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of §  
110 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

111 "Delinquent child" means a child *11 years of age or older* who has committed a delinquent act or an adult  
112 who has committed a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the  
113 juvenile court has been terminated under the provisions of § 16.1-269.6.

114 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in  
115 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties  
116 imposed upon him under this law.

117 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the  
118 comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

119 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places

120 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person  
 121 against such person's family or household member. Such act includes, but is not limited to, any forceful  
 122 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
 123 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,  
 124 sexual assault, or bodily injury.

125 "Family or household member" means (i) the person's spouse, whether or not such spouse resides in the  
 126 same home with the person; (ii) the person's former spouse, whether or not such person resides in the same  
 127 home with the person; (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-  
 128 brothers, half-sisters, grandparents, and grandchildren, regardless of whether such persons reside in the same  
 129 home with the person; (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-  
 130 in-law, and sisters-in-law who reside in the same home with the person; (v) any individual who has a child in  
 131 common with the person, whether or not the person and that individual have been married or have resided  
 132 together at any time; (vi) any individual who cohabits or who, within the previous 12 months, cohabited with  
 133 the person, and any children of either of them then residing in the same home with the person; or (vii) an  
 134 individual who is a legal custodian of a juvenile.

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

137 "Foster care services" means the provision of a full range of casework, treatment and community services  
 138 for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of  
 139 services as defined in this section and his family when the child (i) has been identified as needing services to  
 140 prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between  
 141 the local board of social services or a public agency designated by the community policy and management  
 142 team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been  
 143 committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under  
 144 the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative  
 145 participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and  
 146 developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set  
 147 forth in § 63.2-1306.

148 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the  
 149 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency  
 150 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  
 151 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a  
 152 living arrangement in which such child or person does not have daily substitute parental supervision.

153 "Independent living services" means services and activities provided to a child in foster care 14 years of  
 154 age or older and who has been committed or entrusted to a local board of social services, child welfare  
 155 agency, or private child-placing agency. "Independent living services" may also mean services and activities  
 156 provided to a person who (i) was in foster care on his eighteenth birthday and has not yet reached the age of  
 157 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the  
 158 Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least  
 159 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile  
 160 Justice immediately prior to placement in an independent living arrangement. "Independent living services"  
 161 includes counseling, education, housing, employment, and money management skills development and access  
 162 to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

163 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this  
 164 chapter.

165 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility  
 166 as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child  
 167 incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a  
 168 juvenile facility.

169 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of  
 170 each county or city.

171 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this  
 172 chapter.

173 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have  
 174 physical custody of the child, to determine and redetermine where and with whom he shall live, the right and  
 175 duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary  
 176 medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by  
 177 court order of joint custody as defined in § 20-107.2.

178 "Permanent foster care placement" means the place of residence in which a child resides and in which he  
 179 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement  
 180 between the placing agency and the place of permanent foster care that the child shall remain in the

181 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to  
182 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural  
183 person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

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

212 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the  
213 parent after the transfer of legal custody or guardianship of the person, including but not limited to the right  
214 of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

215 "Secure facility" or "detention home" means a local, regional or state public or private locked residential  
216 facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of  
217 children held in lawful custody.

218 "Shelter care" means the temporary care of children in physically unrestricting facilities.

219 "State Board" means the State Board of Juvenile Justice.

220 "Status offender" means a child who commits an act prohibited by law which would not be criminal if  
221 committed by an adult.

222 "Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

223 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §  
224 16.1-269.1 when committed by a juvenile 14 years of age or older.

225 **§ 16.1-278.8. Delinquent juveniles.**

226 A. If a juvenile *11 years of age or older* is found to be delinquent, except where such finding involves a  
227 refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit  
228 court may make any of the following orders of disposition for his supervision, care, and rehabilitation:

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

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

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

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

238 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer  
239 disposition of the delinquency charge for a specific period of time established by the court with due regard  
240 for the gravity of the offense and the juvenile's history, and place the juvenile on probation under such  
241 conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court

242 shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these  
 243 provisions shall be without adjudication of guilt;

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

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

250 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in  
 251 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of  
 252 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and  
 253 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the  
 254 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the  
 255 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently  
 256 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's  
 257 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be  
 258 brought before the court for a hearing at which the court may impose any other disposition authorized by this  
 259 section. The court shall review such placements at 30-day intervals;

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

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

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

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

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

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

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

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

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

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

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

298 c. The local board of social services of the county or city in which the court has jurisdiction or, at the  
 299 discretion of the court, to the local board of the county or city in which the juvenile has residence if other  
 300 than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and  
 301 custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to  
 302 be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board

303 may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an  
 304 opportunity to be heard if the judge entering the placement order describes the emergency and the need for  
 305 such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a  
 306 juvenile to any local board of social services in the Commonwealth when such local board consents to the  
 307 commitment. The board to which the juvenile is committed shall have the final authority to determine the  
 308 appropriate placement for the juvenile. Nothing herein shall limit the authority of the court to review the  
 309 child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan  
 310 through a petition filed pursuant to subsection A of § 16.1-282. Any order authorizing removal from the  
 311 home and transferring legal custody of a juvenile to a local board of social services as provided in this  
 312 subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to  
 313 prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile,  
 314 and the order shall so state;

315 14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his  
 316 attorney or other legal representative, upon consideration of the results of an investigation completed  
 317 pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11  
 318 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of §  
 319 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  
 320 if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and  
 321 the juvenile has previously been found to be delinquent based on an offense that would be a felony if  
 322 committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and  
 323 the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1  
 324 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or  
 325 scheme;

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

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

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

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

332 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,  
 333 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if  
 334 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,  
 335 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,  
 336 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

337 B. If the court finds a juvenile *11 years of age or older* delinquent of any of the following offenses, the  
 338 court shall require the juvenile to make at least partial restitution or reparation for any property damage, for  
 339 loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: §  
 340 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128,  
 341 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to §  
 342 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under  
 343 such conditions as the court prescribes.

344 **§ 16.1-278.9:1. Delinquent act committed by a juvenile younger than 11 years of age; disposition.**

345 A. *If a juvenile younger than 11 years of age is found to have committed a delinquent act, such juvenile*  
 346 *shall not be proceeded upon as delinquent pursuant to § 16.1-278.8; however, the court may make any orders*  
 347 *of disposition authorized under § 16.1-278.4 or 16.1-278.5.*

348 B. *Any funding that is available to provide services to a child 11 years of age or older who is proceeded*  
 349 *upon as delinquent pursuant to § 16.1-278.8 shall also be made available to a child younger than 11 years of*  
 350 *age who is found to have committed a delinquent act in order to provide such child the same services.*

351 **§ 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty;**  
 352 **abandoned infant.**

353 Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes to,  
 354 encourages, or causes any act, omission, or condition that (a) *causes a child younger than 11 years of age to*  
 355 *commit a delinquent act; (b) renders a child delinquent, in need of services, in need of supervision, or abused*  
 356 *or neglected as defined in § 16.1-228; or (c) causes any child to participate in or become a member of a*  
 357 *criminal street gang in violation of Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2 or (ii) engages*  
 358 *in consensual sexual intercourse or anal intercourse with or performs cunnilingus, fellatio, or anilingus upon*  
 359 *or by a child 15 or older not his spouse, child, or grandchild is guilty of a Class 1 misdemeanor. This section*  
 360 *shall not be construed as repealing, modifying, or in any way affecting §§ 18.2-18, and 18.2-19, Article 2.1 (§*  
 361 *18.2-46.1 et seq.) of Chapter 4 of Title 18.2, and §§ 18.2-61, 18.2-63, and 18.2-347.*

362 If the prosecution under this section is based solely on the accused parent having left the child at a  
 363 hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a parent

364 under this section that such parent safely delivered the child within the first 30 days of the child's life to (a) a  
365 hospital that provides 24-hour emergency services, (b) an attended emergency medical services agency that  
366 employs emergency medical services personnel, or (c) a newborn safety device located at and operated by  
367 such hospital or emergency medical services agency. In order for the affirmative defense to apply, the child  
368 shall be delivered in a manner reasonably calculated to ensure the child's safety.

**INTRODUCED**

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