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**SENATE BILL NO. 778****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice  
on January 15, 2025)

(Patron Prior to Substitute—Senator Locke)

*A BILL to amend and reenact §§ 16.1-228, 16.1-246, 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.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-228, 16.1-246, 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 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an attended emergency medical services agency that employs emergency medical services personnel, or (iii) a

60 newborn safety device located at and operated by such hospital or emergency medical services agency. For  
61 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find  
62 such a child is a neglected child upon the ground of abandonment.

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

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

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

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

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

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

88 "Child in need of supervision" means:

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

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

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

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

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

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

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

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

118 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places  
119 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person  
120 against such person's family or household member. Such act includes, but is not limited to, any forceful

121 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
 122 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,  
 123 sexual assault, or bodily injury.

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

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

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

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

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

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

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

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

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

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

177 "Permanent foster care placement" means the place of residence in which a child resides and in which he  
 178 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement  
 179 between the placing agency and the place of permanent foster care that the child shall remain in the  
 180 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to  
 181 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural

182 person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

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

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

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

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

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

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

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

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

224 **§ 16.1-246. When and how child may be taken into immediate custody.**

225 No child may be taken into immediate custody except:

226 A. With a detention order issued by the judge, the intake officer or the clerk, when authorized by the  
227 judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or  
228 with a warrant issued by a magistrate; or

229 B. When a child is alleged to be in need of services or supervision and (i) there is a clear and substantial  
230 danger to the child's life or health, *the safety of the child's family or the public*, or (ii) the assumption of  
231 custody is necessary to ensure the child's appearance before the court; or

232 C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a  
233 crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or  
234 under federal law and the officer believes that such is necessary for the protection of the public interest; or

235 C1. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of §  
236 18.2-103, (ii) assault and battery or (iii) carrying a weapon on school property in violation of § 18.2-308.1  
237 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is  
238 based on probable cause on reasonable complaint of a person who observed the alleged offense; or

239 D. When there is probable cause to believe that a child has committed an offense which if committed by  
240 an adult would be a felony; or

241 E. When a law-enforcement officer has probable cause to believe that a person committed to the  
242 Department of Juvenile Justice as a child has run away or that a child has escaped from a jail or detention

243 home; or

244 F. When a law-enforcement officer has probable cause to believe a child has run away from a residential,  
245 child-caring facility or home in which he had been placed by the court, the local department of social services  
246 or a licensed child welfare agency; or

247 G. When a law-enforcement officer has probable cause to believe that a child (i) has run away from home  
248 or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-  
249 enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or

250 H. When a child is believed to be in need of inpatient treatment for mental illness as provided in §  
251 16.1-340.

252 **§ 16.1-278.8. Delinquent juveniles.**

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

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

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

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

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

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

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

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

277 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in  
278 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of  
279 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and  
280 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the  
281 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the  
282 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently  
283 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's  
284 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be  
285 brought before the court for a hearing at which the court may impose any other disposition authorized by this  
286 section. The court shall review such placements at 30-day intervals;

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

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

297 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical  
298 custody of the court during any period of curfew restriction. The court shall send an abstract of any order  
299 issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a  
300 record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the  
301 provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the  
302 Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall  
303 be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably

304 necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with  
305 its terms.

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

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

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

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

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

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

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

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

325 c. The local board of social services of the county or city in which the court has jurisdiction or, at the  
326 discretion of the court, to the local board of the county or city in which the juvenile has residence if other  
327 than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and  
328 custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to  
329 be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board  
330 may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an  
331 opportunity to be heard if the judge entering the placement order describes the emergency and the need for  
332 such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a  
333 juvenile to any local board of social services in the Commonwealth when such local board consents to the  
334 commitment. The board to which the juvenile is committed shall have the final authority to determine the  
335 appropriate placement for the juvenile. Nothing herein shall limit the authority of the court to review the  
336 child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan  
337 through a petition filed pursuant to subsection A of § 16.1-282. Any order authorizing removal from the  
338 home and transferring legal custody of a juvenile to a local board of social services as provided in this  
339 subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to  
340 prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile,  
341 and the order shall so state;

342 14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his  
343 attorney or other legal representative, upon consideration of the results of an investigation completed  
344 pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11  
345 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of §  
346 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  
347 if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and  
348 the juvenile has previously been found to be delinquent based on an offense that would be a felony if  
349 committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and  
350 the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1  
351 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or  
352 scheme;

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

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

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

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

359 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,  
360 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if  
361 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,  
362 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,  
363 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

364 B. If the court finds a juvenile *11 years of age or older* delinquent of any of the following offenses, the

365 court shall require the juvenile to make at least partial restitution or reparation for any property damage, for  
366 loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: §  
367 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,  
368 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to §  
369 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under  
370 such conditions as the court prescribes.

371 **§ 16.1-278.9:1. Delinquent act committed by a juvenile younger than 11 years of age; disposition.**

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

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

378 **§ 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty;**  
379 **abandoned infant.**

380 Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes to,  
381 encourages, or causes any act, omission, or condition that (a) causes a child younger than 11 years of age to  
382 commit a delinquent act; (b) renders a child delinquent, in need of services, in need of supervision, or abused  
383 or neglected as defined in § 16.1-228; or (c) causes any child to participate in or become a member of a  
384 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  
385 in consensual sexual intercourse or anal intercourse with or performs cunnilingus, fellatio, or anilingus upon  
386 or by a child 15 or older not his spouse, child, or grandchild is guilty of a Class 1 misdemeanor. This section  
387 shall not be construed as repealing, modifying, or in any way affecting §§ 18.2-18, and 18.2-19, Article 2.1 (§  
388 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, and §§ 18.2-61, 18.2-63, and 18.2-347.

389 If the prosecution under this section is based solely on the accused parent having left the child at a  
390 hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a parent  
391 under this section that such parent safely delivered the child within the first 30 days of the child's life to (a) a  
392 hospital that provides 24-hour emergency services, (b) an attended emergency medical services agency that  
393 employs emergency medical services personnel, or (c) a newborn safety device located at and operated by  
394 such hospital or emergency medical services agency. In order for the affirmative defense to apply, the child  
395 shall be delivered in a manner reasonably calculated to ensure the child's safety.