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SENATE BILL NO. 747

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations)

(Patron Prior to Substitute—Senator Favola)

Senate Amendments in [] - January 24, 2025

A *BILL to amend and reenact §§ 16.1-274 and 16.1-278.8 of the Code of Virginia, relating to juvenile and domestic relations district courts; delinquent juveniles; social assessments and evaluations.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 16.1-274 and 16.1-278.8 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports; fees.**

A. Whenever any court directs an investigation pursuant to subdivision A of § 16.1-237 or § 16.1-273 or 9.1-153, or an evaluation pursuant to § 16.1-278.5 or subsection C of § 16.1-278.8, the probation officer, court-appointed special advocate, or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than 72 hours, and in cases of child custody, 15 days, prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof. However, the chief judge of each juvenile and domestic relations district court may provide for an alternative means of copying and distributing reports or amended reports referenced above.

B. Notwithstanding the provisions of §§ 16.1-69.48:2 and 17.1-275, when the court directs the appropriate local department of social services to conduct supervised visitation or directs the appropriate local department of social services or court services unit to conduct an investigation pursuant to § 16.1-273 or to provide mediation services in matters involving a child's custody, visitation, or support, the court shall assess a fee against the petitioner, the respondent, or both, in accordance with fee schedules established by the appropriate local board of social services when the service is provided by a local department of social services or by a court services unit. The fee schedules shall include (i) standards for determining the paying party's or parties' ability to pay and (ii) a scale of fees based on the paying party's or parties' income and family size and the actual cost of the services provided. The fee charged shall not exceed the actual cost of the service. The fee shall be assessed as a cost of the case and shall be paid as prescribed by the court to the local department of social services, locally operated court services unit or Department of Juvenile Justice, whichever performed the service, unless payment is waived. The method and medium for payment for such services shall be determined by the local department of social services, Department of Juvenile Justice, or the locally operated court services unit that provided the services.

C. When a local department of social services or any court services unit is requested by another local department or court services unit in the Commonwealth or by a similar department or entity in another state to conduct an investigation involving a child's custody, visitation or support pursuant to § 16.1-273 or, in the case of a request from another state pursuant to a provision corresponding to § 16.1-273, or to provide mediation services, or for a local department of social services to provide supervised visitation, the local department or the court services unit performing the service may require payment of fees prior to conducting the investigation or providing mediation services or supervised visitation.

D. In any matter in which the court appoints a guardian ad litem to represent a child, such guardian ad litem shall conduct an investigation in accordance with the Standards to Govern the Performance of Guardians Ad Litem for Children established by the Judicial Council of Virginia. Prior to the commencement of the dispositional hearing of any such matter, the guardian ad litem shall file with the court, with a copy to all attorneys representing parties to such matter and all parties proceeding pro se in such matter, a certification of the guardian ad litem's compliance with the Standards to Govern the Performance of Guardians Ad Litem for Children established by the Judicial Council of Virginia, specifically addressing compliance with such standards requiring face-to-face contact with the child in such certification. The guardian ad litem shall document the hours spent satisfying such face-to-face contact requirements in such certification, which shall be compensated at the same rate as that for in-court service.

§ 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;

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

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

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

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

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

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

80 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in
81 a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of
82 juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and
83 assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the
84 offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the
85 juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently
86 being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's
87 withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be
88 brought before the court for a hearing at which the court may impose any other disposition authorized by this
89 section. The court shall review such placements at 30-day intervals;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,
163 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if
164 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,
165 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,
166 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

167 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
168 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
169 offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1,
170 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,
171 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court
172 shall further require the juvenile to participate in a community service project under such conditions as the
173 court prescribes.

174 C. *If a court finds that a juvenile is delinquent, the court may, before final disposition of the case, direct*
175 *the appropriate public agency to evaluate the juvenile's service needs using an interdisciplinary team*
176 *approach. The team shall consist of qualified personnel who are reasonably available from the appropriate*
177 *department of social services, community services board, [local school division,] court service unit, and*
178 *other appropriate and available public agencies and may be the family assessment and planning team*
179 *established pursuant to § 2.2-5207. A report of the evaluation shall be filed by the evaluating agency as*
180 *provided in subsection A of § 16.1-274. In lieu of directing an evaluation be made, the court may consider the*
181 *report concerning the juvenile of an interdisciplinary team that met not more than 90 days prior to the court's*
182 *making a finding that the juvenile is delinquent.*