

26100547D

**SENATE BILL NO. 18**

Senate Amendments in [ ] - January 21, 2026

*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 children; adjudication of delinquency.*

## Patrons Prior to Engrossment—Senators Locke; Delegate: Hope

Referred to Committee for Courts of Justice

**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:

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

24       2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for  
25 his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in  
26 accordance with the tenets and practices of a recognized church or religious denomination shall for that  
27 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal  
28 authority for the child or, in the absence of parents with legal authority for the child, any person with legal  
29 authority for the child who refuses a particular medical treatment for a child with a life-threatening condition  
30 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or  
31 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently  
32 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person  
33 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other  
34 person with legal authority and the child believe in good faith that such decision is in the child's best interest.  
35 No child whose parent or other person responsible for his care allows the child to engage in independent  
36 activities without adult supervision shall for that reason alone be considered to be an abused or neglected  
37 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and  
38 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly  
39 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or  
40 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a  
41 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of  
42 § 16.1-278.4;

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

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

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

49       6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental  
50       injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in  
51       § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other  
52       person responsible for his care knows has been convicted of an offense against a minor for which registration  
53       is required as a Tier III offender pursuant to § 9.1-902; or

54       7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the  
55       federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for  
56       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

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; (ii) a child who remains away from or deserts  
76 or abandons his family or lawful custodian during one occasion and is demonstratively at risk of coercion,  
77 exploitation, abuse, or manipulation or has been lured from his parent or lawful custodian by means of  
78 trickery or misrepresentation or under false pretenses; or (iii) a child ~~under the age of~~ younger than 14 years  
79 of age whose behavior, conduct, or condition presents or results in a serious threat to the well-being and  
80 physical safety of another person; or (iv) a child younger than 11 years of age who has committed an act that  
81 would be delinquent if committed by a child 11 years of age or older; however, no child who in good faith is  
82 under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a  
83 recognized church or religious denomination shall for that reason alone be considered to be a child in need of  
84 services, nor shall any child who habitually remains away from or habitually deserts or abandons his family  
85 as a result of what the court or the local child protective services unit determines to be incidents of physical,  
86 emotional, or sexual abuse in the home be considered a child in need of services for that reason alone.

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

92 "Child in need of supervision" means:

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

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

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

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

110 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance  
111 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a  
112 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of  
113 § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

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

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

120 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the

121 comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

122 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places  
 123 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person  
 124 against such person's family or household member. Such act includes, but is not limited to, any forceful  
 125 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
 126 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,  
 127 sexual assault, or bodily injury.

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

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

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

151 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the  
 152 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency  
 153 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  
 154 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a  
 155 living arrangement in which such child or person does not have daily substitute parental supervision.

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

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

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

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

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

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

181 "Permanent foster care placement" means the place of residence in which a child resides and in which he  
 182 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement

ENGROSSED

SB18E

183 between the placing agency and the place of permanent foster care that the child shall remain in the  
184 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to  
185 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural  
186 person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

191 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement  
192 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical  
193 and other needs of children with serious emotional or behavioral disorders, including any clinical or other  
194 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs  
195 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their  
196 practice, and are available 24 hours a day, seven days a week; (iv) conducts outreach with the child's family  
197 members, including efforts to maintain connections between the child and his siblings and other family;  
198 documents and maintains records of such outreach efforts; and maintains contact information for any known  
199 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,  
200 facilitates participation by family members in the child's treatment program before and after discharge and  
201 documents the manner in which such participation is facilitated; (vi) provides discharge planning and  
202 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42  
203 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and  
204 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30  
205 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an  
206 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of  
207 Social Services; (b) identifies whether the needs of the child can be met through placement with a family  
208 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a  
209 qualified residential treatment program, that would provide the most effective and appropriate level of care  
210 for the child in the least restrictive environment and be consistent with the short-term and long-term goals  
211 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
212 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be  
213 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
214 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

226 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of  
227 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

228 **§ 16.1-246. When and how child may be taken into immediate custody.**

229 No child may be taken into immediate custody except:

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

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

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

239 C1. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of  
240 § 18.2-103, (ii) assault and battery or (iii) carrying a weapon on school property in violation of § 18.2-308.1  
241 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is  
242 based on probable cause on reasonable complaint of a person who observed the alleged offense; or

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

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

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

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

254 H. When a child is believed to be in need of inpatient treatment for mental illness as provided in  
 255 § 16.1-340.

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

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

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

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

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

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

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

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

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

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

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

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

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

ENGROSSED

SB18E

307 be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably  
308 necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with  
309 its terms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

363 19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to,  
364 programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if  
365 available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1,  
366 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,  
367 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

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

369 court shall require the juvenile to make at least partial restitution or reparation for any property damage, for  
 370 loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense:  
 371 § 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,  
 372 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to  
 373 § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under  
 374 such conditions as the court prescribes.

375 **§ 16.1-278.9:1. When a child younger than 11 years of age is found to have committed an act that  
 376 would be delinquent if committed by a child 11 years of age or older; disposition.**

377 *A. If a child younger than 11 years of age is alleged to have committed an act that would be delinquent if  
 378 committed by a child 11 years of age or older, such child shall not be proceeded upon as delinquent pursuant  
 379 to § 16.1-278.8; however, the court may make any orders of disposition authorized under § 16.1-278.4 or  
 380 16.1-278.5. [ Upon motion of the Commonwealth, the court shall amend any delinquency petition to allege  
 381 that the child is in need of services or in need of supervision and proceed pursuant to § 16.1-278.4 or  
 382 16.1-278.5. ]*

383 *B. Any funding that is available to provide services to a child 11 years of age or older who is proceeded  
 384 upon as delinquent pursuant to § 16.1-278.8 shall also be made available to a child younger than 11 years of  
 385 age who is found to have committed an act that would be delinquent if committed by a child 11 years of age  
 386 or older in order to provide such child with the same services.*

387 **§ 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty;  
 388 abandoned infant.**

389 Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes to,  
 390 encourages, or causes any act, omission, or condition that (a) *causes a child younger than 11 years of age to  
 391 commit an act that would be delinquent if committed by a child 11 years of age or older;* (b) renders a child  
 392 delinquent, in need of services, in need of supervision, or abused or neglected as defined in § 16.1-228; or (c)  
 393 *causes any child to participate in or become a member of a criminal street gang in violation of Article 2.1  
 394 (§ 18.2-46.1 et seq.) of Chapter 4 or (ii) engages in consensual sexual intercourse or anal intercourse with or  
 395 performs cunnilingus, fellatio, or anilingus upon or by a child 15 or older not his spouse, child, or grandchild  
 396 is guilty of a Class 1 misdemeanor. This section shall not be construed as repealing, modifying, or in any way  
 397 affecting §§ 18.2-18; and 18.2-19, Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4, and §§ 18.2-61, 18.2-63, and  
 398 18.2-347.*

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

ENGROSSED

SB18E