

HOUSE BILL NO. 2044

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Shin)

A BILL to amend and reenact §§ 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.10, 16.1-284, 16.1-284.1, 16.1-286, 16.1-290, 16.1-292, 16.1-293.1, 16.1-298, 16.1-309.1, 16.1-330.1, 18.2-371.2, 19.2-349, 46.2-383, 46.2-808.2, and 63.2-100 of the Code of Virginia, relating to fines and costs assessed against juveniles in criminal and traffic cases; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-272, 16.1-273, 16.1-275, 16.1-278.7, 16.1-278.8, 16.1-278.10, 16.1-284, 16.1-284.1, 16.1-286, 16.1-290, 16.1-292, 16.1-293.1, 16.1-298, 16.1-309.1, 16.1-330.1, 18.2-371.2, 19.2-349, 46.2-383, 46.2-808.2, and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-272. Power of circuit court over juvenile offender.

A. In any case in which a juvenile is indicted, the offense for which he is indicted and all ancillary charges shall be tried in the same manner as provided for in the trial of adults, except as otherwise provided with regard to sentencing. Upon a finding of guilty of any charge, the court shall fix the sentence without the intervention of a jury. Nothing in this subsection shall be construed to require a court to review the results of an investigation completed pursuant to § 16.1-273.

1. If a juvenile is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the court may order that (i) the juvenile serve a portion of the sentence as a serious juvenile offender under § 16.1-285.1 and the remainder of such sentence in the same manner as provided for adults; (ii) the juvenile serve the entire sentence in the same manner as provided for adults; or (iii) the portion of the sentence to be served in the same manner as provided for adults be suspended conditioned upon successful completion of such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case including, but not limited to, commitment under subdivision A-14 13 of § 16.1-278.8 or § 16.1-285.1.

27 2. If the juvenile is convicted of any other felony, the court may sentence or commit the juvenile
28 offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with
29 the juvenile in the manner prescribed in this chapter for the hearing and disposition of cases in the juvenile
30 court, including, but not limited to, commitment under § 16.1-285.1 or may in its discretion impose an
31 adult sentence and suspend the sentence conditioned upon successful completion of such terms and
32 conditions as may be imposed in a juvenile court upon disposition of a delinquency case.

33 3. Notwithstanding any other provision of law, if the juvenile is convicted of any felony, the court
34 may in its discretion depart from any mandatory minimum sentence required by law or suspend any
35 portion of an otherwise applicable sentence.

36 4. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court shall
37 deal with the juvenile in the manner prescribed by law for the disposition of a delinquency case in the
38 juvenile court.

39 B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile
40 court and places the juvenile on probation, the juvenile may be supervised by a juvenile probation officer.

41 C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under
42 the criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63,
43 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or 18.2-370.1 or, where the victim is a
44 minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of §
45 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex
46 Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of
47 Title 9.1.

48 D. In any case in which a juvenile is not sentenced as a juvenile under this chapter, the court shall,
49 in addition to considering any other factor and prior to imposing a sentence, consider (i) the juvenile's
50 exposure to adverse childhood experiences, early childhood trauma, or any child welfare agency and (ii)
51 the differences between juvenile and adult offenders.

52 E. A juvenile sentenced pursuant to clause (i) of subdivision A 1 shall be eligible to earn sentence
53 credits in the manner prescribed by § 53.1-202.2 for the portion of the sentence served as a serious juvenile
54 offender under § 16.1-285.1.

55 F. If the court sentences the juvenile as a juvenile under this chapter, the clerk shall provide a copy
56 of the court's final order or judgment to the court service unit in the same locality as the juvenile court to
57 which the case had been transferred.

58 **§ 16.1-273. Court may require investigation of social history and preparation of victim**
59 **impact statement.**

60 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
61 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation
62 of the game and fish law, or a violation of any city ordinance regulating surfing or establishing curfew
63 violations, the court before final disposition thereof may require an investigation, which (i) shall include
64 a drug screening and (ii) may, and for the purposes of subdivision A-14 13 or-17 16 of § 16.1-278.8 shall,
65 include a social history of the physical, mental, and social conditions, including an assessment of any
66 affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the facts
67 and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated
68 delinquent on the basis of an act committed on or after January 1, 2000, which would be (a) a felony if
69 committed by an adult, or (b) a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1
70 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2
71 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If
72 the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment
73 shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the
74 Department of Juvenile Justice or by a locally operated court services unit or by an individual employed
75 by or currently under contract to such agencies and who is specifically trained to conduct such assessments
76 under the supervision of such counselor.

77 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
78 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with

79 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
80 physical, psychological, or economic injury as a result of the violation of law.

81 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

82 The juvenile court or the circuit court may cause any juvenile within its jurisdiction under the
83 provisions of this law to be physically examined and treated by a physician or to be examined and treated
84 at a local mental health center. If no such appropriate facility is available locally, the court may order the
85 juvenile to be examined and treated by any physician or psychiatrist or examined by a clinical
86 psychologist. The Commissioner of Behavioral Health and Developmental Services shall provide for
87 distribution a list of appropriate mental health centers available throughout the Commonwealth. Upon the
88 written recommendation of the person examining the juvenile that an adequate evaluation of the juvenile's
89 treatment needs can only be performed in an inpatient hospital setting, the court shall have the power to
90 send any such juvenile to a state mental hospital for not more than 10 days for the purpose of obtaining a
91 recommendation for the treatment of the juvenile. No juvenile sent to a state mental hospital pursuant to
92 this provision shall be held or cared for in any maximum security unit where adults determined to be
93 criminally insane reside; the juvenile shall be kept separate and apart from such adults. However, the
94 Commissioner of Behavioral Health and Developmental Services may place a juvenile who has been
95 certified to the circuit court for trial as an adult pursuant to § 16.1-269.6 or 16.1-270 or who has been
96 convicted as an adult of a felony in the circuit court in a unit appropriate for the care and treatment of
97 persons under a criminal charge when, in his discretion, such placement is necessary to protect the security
98 or safety of other patients, staff or the public.

99 Whenever the parent or other person responsible for the care and support of a juvenile is
100 determined by the court to be financially unable to pay the costs of such examination as ordered by the
101 juvenile court or the circuit court, such costs may be paid according to procedures and rates adopted by
102 the Department from funds appropriated in the general appropriation act for the Department.

103 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found
104 to be delinquent for an offense that is eligible for commitment pursuant to subdivision A-1413 of § 16.1-
105 278.8 or § 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice for a

106 period of time not to exceed 30 days for diagnostic assessment services after the adjudicatory hearing and
107 prior to final disposition of his or her case. Prior to such a placement, the Department shall determine that
108 the personnel, services and space are available in the appropriate correctional facility for the care,
109 supervision and study of such juvenile and that the juvenile's case is appropriate for referral for diagnostic
110 services.

111 Whenever a juvenile concerning whom a petition has been filed appears to be in need of nursing,
112 medical or surgical care, the juvenile court or the circuit court may order the parent or other person
113 responsible for the care and support of the juvenile to provide such care in a hospital or otherwise and to
114 pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the juvenile
115 court or the circuit court may refer the matter to the authority designated in accordance with law for the
116 determination of eligibility for such services in the county or city in which such juvenile or his parents
117 have residence or legal domicile.

118 In any such case, if a parent who is able to do so fails or refuses to comply with the order, the
119 juvenile court or the circuit court may proceed against him as for contempt or may proceed against him
120 for nonsupport.

121 **§ 16.1-278.7. Commitment to Department of Juvenile Justice.**

122 Only a juvenile who is (i) adjudicated delinquent of an act enumerated in subsection B or C of §
123 16.1-269.1 and is 11 years of age or older or (ii) 14 years of age or older may be committed to the
124 Department of Juvenile Justice. In cases where a waiver of an investigation has been granted pursuant to
125 subdivision A-14 13 or A-17 16 of § 16.1-278.8, at the time a court commits a child to the Department of
126 Juvenile Justice the court shall order an investigation pursuant to § 16.1-273 to be completed within 15
127 days. No juvenile court or circuit court shall order the commitment of any child jointly to the Department
128 of Juvenile Justice and to a local board of social services or transfer the custody of a child jointly to a court
129 service unit of a juvenile court and to a local board of social services. Any person sentenced and committed
130 to an active term of incarceration in the Department of Corrections who is, at the time of such sentencing,
131 in the custody of the Department of Juvenile Justice, upon pronouncement of sentence, shall be
132 immediately transferred to the Department of Corrections.

133 **§ 16.1-278.8. Delinquent juveniles.**

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

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

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

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

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

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

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

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

158 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or
159 drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the

160 treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse
161 screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the
162 commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs
163 and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously
164 been and is not currently being adjudicated for a violent juvenile felony; and (iii) such facility is available.
165 Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the
166 program, he shall be brought before the court for a hearing at which the court may impose any other
167 disposition authorized by this section. The court shall review such placements at 30-day intervals;

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

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

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

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

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

192 ~~10-9.~~ Require the juvenile to make restitution or reparation to the aggrieved party or parties for
193 actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

194 ~~11-10.~~ Require the juvenile to participate in a public service project under such conditions as the
195 court prescribes;

196 ~~12-11.~~ In case of traffic violations, impose only those penalties that are authorized to be imposed
197 on adults for such violations. ~~However, for~~ For those violations punishable by confinement if committed
198 by an adult, confinement shall be imposed only as authorized by this title. However, notwithstanding any
199 other provision of law, a court may determine the appropriate amount, if any, of fines and fees imposed
200 against a child for a traffic infraction or other traffic offense;

201 ~~13-12.~~ Transfer legal custody to any of the following:

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

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

208 c. The local board of social services of the county or city in which the court has jurisdiction or, at
209 the discretion of the court, to the local board of the county or city in which the juvenile has residence if
210 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for
211 care and custody, provided that it has been given reasonable notice of the pendency of the case and an
212 opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction,
213 such local board may be required to temporarily accept a juvenile for a period not to exceed 14 days

214 without prior notice or an opportunity to be heard if the judge entering the placement order describes the
215 emergency and the need for such temporary placement in the order. Nothing in this subdivision shall
216 prohibit the commitment of a juvenile to any local board of social services in the Commonwealth when
217 such local board consents to the commitment. The board to which the juvenile is committed shall have the
218 final authority to determine the appropriate placement for the juvenile. Nothing herein shall limit the
219 authority of the court to review the child's status in foster care in accordance with subsection G of § 16.1-
220 281 or to review the foster care plan through a petition filed pursuant to subsection A of § 16.1-282. Any
221 order authorizing removal from the home and transferring legal custody of a juvenile to a local board of
222 social services as provided in this subdivision shall be entered only upon a finding by the court that
223 reasonable efforts have been made to prevent removal and that continued placement in the home would
224 be contrary to the welfare of the juvenile, and the order shall so state;

225 ~~14-~~13. Unless waived by an agreement between the attorney for the Commonwealth and the
226 juvenile and his attorney or other legal representative, upon consideration of the results of an investigation
227 completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if
228 (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in subsection
229 B or C of § 16.1-269.1 or (ii) he is 14 years of age or older and the current offense is (a) an offense that
230 would be a felony if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if
231 committed by an adult and the juvenile has previously been found to be delinquent based on an offense
232 that would be a felony if committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if
233 committed by an adult and the juvenile has previously been adjudicated delinquent of three or more
234 offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a
235 part of a common act, transaction or scheme;

236 ~~15-~~14. Impose the penalty authorized by § 16.1-284;

237 ~~16-~~15. Impose the penalty authorized by § 16.1-284.1;

238 ~~17-~~16. Unless waived by an agreement between the attorney for the Commonwealth and the
239 juvenile and his attorney or other legal representative, upon consideration of the results of an investigation
240 completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

241 ~~18-17.~~ Impose the penalty authorized by § 16.1-278.9; or
242 ~~19-18.~~ Require the juvenile to participate in a gang-activity prevention program including, but not
243 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to §
244 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: §
245 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,
246 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to §
247 15.2-1812.2.

248 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require
249 the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by
250 the offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51,
251 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, 18.2-
252 137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-
253 1812.2. The court shall further require the juvenile to participate in a community service project under
254 such conditions as the court prescribes.

255 **§ 16.1-278.10. Traffic infractions.**

256 In cases involving a child who is charged with a traffic infraction or other traffic offense, the court
257 may impose only those penalties ~~which~~ that are authorized to be imposed on adults for such infractions.

258 Notwithstanding any other provision of law, a court may determine the appropriate amount, if any,
259 of fines and fees imposed against a child for a traffic infraction or other traffic offense.

260 **§ 16.1-284. When adult sentenced for juvenile offense.**

261 A. When the juvenile court sentences an adult who has committed, before attaining the age of 18,
262 an offense that would be a crime if committed by an adult, the court may impose, for each offense, the
263 penalties that are authorized to be imposed on adults for such violations, not to exceed the punishment for
264 a Class 1 misdemeanor, provided that the total jail sentence imposed shall not exceed 36 continuous
265 months and the total fine shall not exceed \$2,500 or the court may order a disposition as provided in
266 subdivision A 4, 5, 7, ~~11, 12, 14, or 17~~ 10, 11, 13, or 16 and subsection B of § 16.1-278.8.

267 B. A person sentenced pursuant to this section shall earn good time credit at the rate of one day for
268 each one day served, including all days served while confined in jail or secured detention prior to
269 conviction and sentencing, in which the person has not violated the written rules and regulations of the
270 jail.

271 **§ 16.1-284.1. Placement in secure local facility.**

272 A. If a juvenile 14 years of age or older is found to have committed an offense which if committed
273 by an adult would be punishable by confinement in a state or local correctional facility as defined in §
274 53.1-1, and the court determines (i) that the juvenile has not previously been and is not currently
275 adjudicated delinquent of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that the
276 juvenile has not been released from the custody of the Department within the previous 18 months, (iii)
277 that the interests of the juvenile and the community require that the juvenile be placed under legal restraint
278 or discipline, and (iv) that other placements authorized by this title will not serve the best interests of the
279 juvenile, then the court may order the juvenile confined in a detention home or other secure facility for
280 juveniles for a period not to exceed six months from the date the order is entered, for a single offense or
281 multiple offenses. However, if the single offense or multiple offenses, which if committed by an adult
282 would be punishable as a felony or a Class 1 misdemeanor, caused the death of any person, then the court
283 may order the juvenile confined in a detention home or other secure facility for juveniles for a period not
284 to exceed 12 months from the date the order is entered.

285 The period of confinement ordered may exceed 30 calendar days if the juvenile has had an
286 assessment completed by the secure facility to which he is ordered concerning the appropriateness of the
287 placement.

288 B. If the period of confinement in a detention home or other secure facility for juveniles is to
289 exceed 30 calendar days, and the juvenile is eligible for commitment pursuant to subdivision A-413 of
290 § 16.1-278.8, then the court shall order the juvenile committed to the Department, but suspend such
291 commitment. In suspending the commitment to the Department as provided for in this subsection, the
292 court shall specify conditions for the juvenile's satisfactory completion of one or more community or
293 facility based treatment programs as may be appropriate for the juvenile's rehabilitation.

294 C. During any period of confinement which exceeds 30 calendar days ordered pursuant to this
295 section, the court shall conduct a mandatory review hearing at least once during each 30 days and at such
296 other times upon the request of the juvenile's probation officer, for good cause shown. If it appears at such
297 hearing that the purpose of the order of confinement has been achieved, the juvenile shall be released on
298 probation for such period and under such conditions as the court may specify and remain subject to the
299 order suspending commitment to the State Department of Juvenile Justice. If the juvenile's commitment
300 to the Department has been suspended as provided in subsection B of this section, and if the court
301 determines at the first or any subsequent review hearing that the juvenile is consistently failing to comply
302 with the conditions specified by the court or the policies and program requirements of the facility, then
303 the court shall order that the juvenile be committed to the State Department of Juvenile Justice. If the court
304 determines at the first or any subsequent review hearing that the juvenile is not actively involved in any
305 community facility based treatment program through no fault of his own, then the court shall order that
306 the juvenile be released under such conditions as the court may specify subject to the suspended
307 commitment.

308 C1. The appearance of the juvenile before the court for a hearing pursuant to subsection C may be
309 by (i) personal appearance before the judge or (ii) use of two-way electronic video and audio
310 communication. If two-way electronic video and audio communication is used, a judge may exercise all
311 powers conferred by law and all communications and proceedings shall be conducted in the same manner
312 as if the appearance were in person, and any documents filed may be transmitted by facsimile process. A
313 facsimile may be served or executed by the officer or person to whom sent, and returned in the same
314 manner, and with the same force, effect, authority, and liability as an original document. All signatures
315 thereon shall be treated as original signatures. Any two-way electronic video and audio communication
316 system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

317 D. A juvenile may only be ordered confined pursuant to this section to a facility in compliance
318 with standards established by the State Board for such placements. Standards for these facilities shall
319 require juveniles placed pursuant to this section for a period which exceeds 30 calendar days be provided
320 separate services for their rehabilitation, consistent with the intent of this section.

321 E. The Department of Juvenile Justice shall assist the localities or combinations thereof in
322 implementing this section consistent with the statewide plan required by § 16.1-309.4 and pursuant to
323 standards promulgated by the State Board, in order to ensure the availability and reasonable access of each
324 court to the facilities the use of which is authorized by this section.

325 **§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.**

326 A. When the court determines that the behavior of a child within its jurisdiction is such that it
327 cannot be dealt with in the child's own locality or with the resources of his locality, the judge shall refer
328 the child to the locality's family assessment and planning team for assessment and a recommendation for
329 services. Based on this recommendation, the court may take custody and place the child, pursuant to the
330 provisions of subdivision 5 of § 16.1-278.4 or subdivision A-~~13~~12 b of § 16.1-278.8, in a private or locally
331 operated public facility, or nonresidential program with funding in accordance with the Children's Services
332 Act (§ 2.2-5200 et seq.). No child shall be placed outside the Commonwealth by a court without first
333 complying with the appropriate provisions of Chapter 11 (§ 63.2-1100 et seq.) of Title 63.2 or with
334 regulations of the State Board of Social Services relating to resident children placed out of the
335 Commonwealth.

336 The Board shall establish a per diem allowance to cover the cost of such placements. This
337 allowance may be drawn from funds allocated through the state pool of funds to the community policy
338 and management team of the locality where the child resides as such residence is determined by the court.

339 B. The court service unit of the locality which made the placement shall be responsible for
340 monitoring and supervising all children placed pursuant to this section. The court shall receive and review,
341 at least semiannually, recommendations concerning the continued care of each child in such placements.

342 **§ 16.1-290. Support of committed juvenile; support from estate of juvenile.**

343 A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents
344 or (ii) a juvenile is placed in temporary shelter care regardless of whether or not legal custody is retained
345 by his parents, after due notice in writing to the parents, the court, pursuant to §§ 20-108.1 and 20-108.2,
346 or the Department of Social Services, pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, shall
347 order the parents to pay support to the Department of Social Services. If the parents fail or refuse to pay

348 such support, the court may proceed against them for contempt, or the order may be filed and shall have
349 the effect of a civil judgment. The provisions of this subsection shall not apply to a juvenile who is
350 committed to the Department pursuant to subdivision A-14 13 or A-17 16 of § 16.1-278.8.

351 B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be
352 required to pay for his education and maintenance so long as there may be funds for that purpose.

353 C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that
354 the parents shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and
355 63.2-1910.

356 A finding of guilt shall not be required for the court so to order payment.

357 **§ 16.1-292. Violation of court order by any person.**

358 A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through
359 16.1-278.19 or § 16.1-284, including a parent subject to an order issued pursuant to subdivision A 3 of §
360 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the order of
361 the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with, (ii) for
362 contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except
363 as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its power to
364 punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for contempt after
365 notice and an opportunity for a hearing on the contempt except that confinement in the case of a juvenile
366 shall be in a secure facility for juveniles rather than in jail and shall not exceed a period of seven days for
367 each offense. However, if the person violating the order was a juvenile at the time of the original act and
368 is 18 years of age or older when the court enters a disposition for violation of the order, the judge may
369 order confinement in jail. If a juvenile is found to have violated a court order as a status offender, any
370 order of disposition of such violation confining the juvenile in a secure facility for juveniles shall (a)
371 identify the valid court order that has been violated; (b) specify the factual basis for determining that there
372 is reasonable cause to believe that the juvenile has violated such order; (c) state the findings of fact that
373 support a determination that there is no appropriate less restrictive alternative available to placing the
374 juvenile in such a facility, with due consideration to the best interest of the juvenile; (d) specify the length

375 of time of such confinement, not to exceed seven days; and (e) include a plan for the juvenile's release
376 from such facility. Such order of confinement shall not be renewed or extended.

377 B. Upon conviction of any party for contempt of court in failing or refusing to comply with an
378 order of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit
379 and sentence such party to confinement in a jail, workhouse, city farm, or work squad as provided in §§
380 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no event,
381 however, shall such sentence be imposed for a period of more than 12 months. The sum or sums as
382 provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance of
383 the spouse or the child or children for whose benefit such order or decree provided.

384 C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it
385 may take with respect to a child violating the terms and conditions of an order to those which the court
386 could have taken at the time of the court's original disposition pursuant to §§ 16.1-278.2 through 16.1-
387 278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive the court
388 of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456 subject to the
389 provisions of subsection A or (ii) punish a child for contempt for violation of a dispositional order in a
390 delinquency proceeding after notice and an opportunity for a hearing regarding such contempt, including
391 acts of disobedience of the court's dispositional order which are committed outside the presence of the
392 court.

393 D. In the event a child in need of services is found to have willfully and materially violated for a
394 second or subsequent time the order of the court pursuant to § 16.1-278.4, the dispositional alternatives
395 specified in subdivision A-9g of § 16.1-278.8 shall be available to the court.

396 E. In the event that a child in need of supervision is found to have willfully and materially violated
397 an order of the court pursuant to § 16.1-278.5, the court may enter any of the following orders of
398 disposition:

- 399 1. Suspend the child's motor vehicle driver's license;
- 400 2. Order any such child 14 years of age or older to be (i) placed in a foster home, group home, or
401 other nonsecure residential facility or, (ii) if the court finds that such placement is not likely to meet the

402 child's needs, that all other treatment options in the community have been exhausted, and that secure
403 placement is necessary in order to meet the child's service needs, detained in a secure facility for a period
404 of time not to exceed seven consecutive days for violation of any order of the court arising out of the same
405 petition. The court shall state in its order for detention the basis for all findings required by this section.
406 In addition, any order of disposition for such violation confining the child in a secure facility for juveniles
407 shall (a) identify the valid court order that has been violated; (b) specify the factual basis for determining
408 that there is reasonable cause to believe that the child has violated such order; (c) state the findings of fact
409 that support a determination that there is no appropriate less restrictive alternative available to placing the
410 child in such a facility, with due consideration to the best interest of the child; (d) specify the length of
411 time of such confinement, not to exceed seven days; and (e) include a plan for the child's release from
412 such facility. Such order of confinement shall not be renewed or extended. When any child is detained in
413 a secure facility pursuant to this section, the court shall direct the agency evaluating the child pursuant to
414 § 16.1-278.5 to reconvene the interdisciplinary team participating in such evaluation as promptly as
415 possible to review its evaluation, develop further treatment plans as may be appropriate and submit its
416 report to the court for its determination as to further treatment efforts either during or following the period
417 the child is in secure detention. A juvenile may only be detained pursuant to this section in a detention
418 home or other secure facility in compliance with standards established by the State Board. Any order
419 issued pursuant to this subsection is a final order and is appealable to the circuit court as provided by law.

420 F. Nothing in this section shall be construed to reclassify a child in need of services or in need of
421 supervision as a delinquent.

422 **§ 16.1-293.1. Mental health services transition plan.**

423 A. The Board of Juvenile Justice, after consultation with the Department of Behavioral Health and
424 Developmental Services, shall promulgate regulations for the planning and provision of post-release
425 services for persons committed to the Department of Juvenile Justice pursuant to subdivision A-413 of
426 § 16.1-278.8 or placed in a postdispositional detention program pursuant to subsection B of § 16.1-284.1
427 and identified as having a recognized mental health, substance abuse, or other therapeutic treatment need.

428 The plan shall be in writing and completed prior to the person's release. The purpose of the plan shall be
429 to ensure continuity of necessary treatment and services.

430 B. The mental health services transition plan shall identify the mental health, substance abuse, or
431 other therapeutic needs of the person being released. Appropriate treatment providers and other persons
432 from state and local agencies or entities, as defined by the Board, shall participate in the development of
433 the plan. Appropriate family members, caregivers, or other persons, as defined by the Board, shall be
434 invited to participate in the development of the person's plan.

435 C. Prior to the person's release from incarceration, the identified agency or agencies responsible
436 for the case management of the mental health services transition plan shall make the necessary referrals
437 specified in the plan and assist the person in applying for insurance and other services identified in the
438 plan, including completing and submitting applications that may only be submitted upon release.

439 **§ 16.1-298. Effect of petition for or pendency of appeal; bail.**

440 A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not
441 suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned
442 or involved in the case from the custody of the court or other person, institution or agency to which the
443 child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court
444 or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a judge or justice
445 thereof.

446 B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or
447 the pendency of an appeal or writ of error:

448 1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision
449 A 8, 9, ~~10, 12, 11, 13, or 14~~, or 15 of § 16.1-278.8.

450 2. In cases involving a child and any local ordinance.

451 3. In cases involving any person over the age of 18 years.

452 Such suspension as is provided for in this subsection shall not apply to (i) an order for support of
453 a spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order
454 disposing of a motion to reconsider relating to participation in continuing programs pursuant to § 16.1-

455 289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1, including a
456 protective order required by § 16.1-253.2, or a protective order entered in conjunction with a disposition
457 pursuant to § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6, 16.1-278.8, or 16.1-278.14, (iv) a protective
458 order issued pursuant to § 19.2-152.10, including a protective order required by § 18.2-60.4, or (v) an
459 order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge
460 of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

461 C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or
462 by order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

463 D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment,
464 order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been
465 noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant
466 to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or court-appointed
467 guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting
468 the matter for which they were appointed.

469 E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that
470 were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a
471 circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

472 **§ 16.1-309.1. Exception as to confidentiality.**

473 A. Notwithstanding any other provision of this article, where consideration of public interest
474 requires, the judge shall make available to the public the name and address of a juvenile and the nature of
475 the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1,
476 2, or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et
477 seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced
478 as an adult in circuit court.

479 B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would
480 constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a
481 secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the

482 Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a
483 locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court
484 having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical
485 description and photograph, the charge for which he is sought or for which he was adjudicated and any
486 other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive
487 and for good cause, the court shall order release of this information to the public. If a juvenile charged
488 with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-
489 enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice
490 at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile
491 Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record,
492 authorize the public release of the juvenile's name, age, physical description and photograph, the charge
493 for which he is sought, and any other information which may expedite his apprehension.

494 b. At any time prior to disposition, if a juvenile charged with a delinquent act which would
495 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or
496 held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the
497 Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction
498 of the offense to authorize public release of the juvenile's name, age, physical description and photograph,
499 the charge for which he is sought or for which he was adjudicated and any other information which may
500 expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court
501 shall order release of this information to the public. If a juvenile charged with a delinquent act that would
502 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or
503 held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court
504 is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record,
505 authorize the public release of the juvenile's name, age, physical description and photograph, the charge
506 for which he is sought, and any other information which may expedite his apprehension.

507 2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a
508 fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to

509 subdivision A-1413 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a
510 facility operated by or under contract with the Department or from the custody of any employee of such
511 facility, the Department may release to the public the juvenile's name, age, physical description and
512 photograph, the charge for which he is sought or for which he was committed, and any other information
513 which may expedite his apprehension. The Department shall promptly notify the attorney for the
514 Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released
515 pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure
516 facility not operated by or under contract with the Department becomes a fugitive by such escape, the
517 attorney for the Commonwealth of the locality in which the facility is located may release the information
518 as provided in this subdivision.

519 C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a
520 criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon,
521 a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as
522 defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of
523 the public interest requires, make the juvenile's name and address available to the public.

524 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a
525 misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5
526 if committed by an adult, the court may order that such victim be informed of the charge or charges
527 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"
528 shall be defined as in § 19.2-11.01.

529 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant
530 to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been
531 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

532 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or
533 other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city
534 wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained
535 in the court order to other law-enforcement officers in the conduct of official duties.

536 G. Notwithstanding any other provision of law, where consideration of public safety requires, the
537 Department and locally operated court service unit shall release information relating to a juvenile's
538 criminal street gang involvement, if any, and the criminal street gang-related activity and membership of
539 others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of
540 a juvenile and shall include the identity or identifying information of the juvenile; however, the
541 Department and local court service unit shall not release the identifying information of a juvenile not
542 affiliated with or involved in a criminal street gang unless that information relates to a specific criminal
543 act. Such information shall be released to any State Police, local police department, sheriff's office, or
544 law-enforcement task force that is a part of or administered by the Commonwealth or any political
545 subdivision thereof, and that is responsible for the prevention and detection of crime and the enforcement
546 of the penal, traffic, or highway laws of the Commonwealth. The exchange of information shall be for the
547 purpose of an investigation into criminal street gang activity.

548 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall
549 report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland
550 Security a juvenile who has been detained in a secure facility but only upon an adjudication of delinquency
551 or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile is in the United
552 States illegally.

553 **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition;**
554 **disclosure of information; penalty.**

555 A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i)
556 adjudicated delinquent or convicted of murder or attempted murder, armed robbery, any felony sexual
557 assault or malicious wounding, or a felony violation of a gang-related crime pursuant to Article 2.1 (§
558 18.2-46.1 et seq.) of Chapter 4 of Title 18.2, or (ii) convicted at least three times for offenses which would
559 be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or adjudications
560 shall include only those for offenses occurring after July 1, 1993. However, any Serious or Habitual
561 Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be deemed to
562 have been established pursuant to this article and, notwithstanding the limitations of this subsection, may

563 continue to supervise persons who were being supervised on July 1, 1993. Juvenile offenders under
564 SHOCAP supervision at the time of their eighteenth birthday who have been committed to state care
565 pursuant to subdivision A-4413 of § 16.1-278.8 or § 16.1-285.1 may continue to be supervised by
566 SHOCAP until their twenty-first birthday.

567 B. The Serious or Habitual Offender Comprehensive Action Program (SHOCAP) is a
568 multidisciplinary interagency case management and information sharing system which enables the
569 juvenile and criminal justice system, schools, and social service agencies to make more informed decisions
570 regarding juveniles who repeatedly commit serious criminal and delinquent acts. Each SHOCAP shall
571 supervise serious or habitual juvenile offenders in the community as well as those under probation or
572 parole supervision and enhance current conduct control, supervision and treatment efforts to provide a
573 more coordinated public safety approach to serious juvenile crime, increase the opportunity for success
574 with juvenile offenders and assist in the development of early intervention strategies.

575 C. Any county or city in the Commonwealth may by action of its governing body establish a
576 SHOCAP committee. The committee shall consist of representatives from local law enforcement, schools,
577 attorneys for the Commonwealth, juvenile court services, juvenile detention centers or group homes,
578 mental and medical health agencies, state and local children and family service agencies, and the
579 Department of Juvenile Justice. Any county or city which establishes a SHOCAP committee shall, within
580 45 days of such action, notify the Department of Criminal Justice Services. The Department shall issue
581 statewide SHOCAP guidelines and provide technical assistance to local jurisdictions on implementation
582 of SHOCAP.

583 D. Each SHOCAP committee shall share among its members and with other SHOCAP committees
584 otherwise confidential information on identified serious or habitual juvenile offenders. Every person,
585 including members of the SHOCAP committee, who is to receive confidential information pursuant to
586 this article shall maintain the confidentiality of that information.

587 All records and reports concerning serious or habitual juvenile offenders made available to
588 members of a SHOCAP committee and all records and reports identifying an individual offender which
589 are generated by the committee from such reports shall be confidential and shall not be disclosed, except

590 as specifically authorized by this article or other applicable law. Disclosure of the information may be
591 made to other staff from member agencies as authorized by the SHOCAP committee for the furtherance
592 of case management, community supervision, conduct control and locating of the offender for the
593 application and coordination of appropriate services. Staff from the member agencies who receive such
594 information will be governed by the confidentiality provisions of this article. The staff from the member
595 agencies who will qualify to have access to the SHOCAP information shall be limited to those individuals
596 who provide direct services to the offender or who provide community conduct control and supervision
597 to the offender.

598 The provisions of this article authorizing information sharing between and among SHOCAP
599 committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11
600 of this title governing dissemination of court and law-enforcement records concerning juveniles, (ii)
601 Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title 37.2
602 and any regulations enacted pursuant thereto governing access to juvenile mental health records, and (iv)
603 Title 63.2 and any regulations enacted pursuant thereto governing access to records concerning treatments
604 or services provided to a juvenile.

605 E. It shall be unlawful for any staff person from a member agency to disclose or to knowingly
606 permit, assist or encourage the unauthorized release of any identifying information contained in any
607 reports or records received or generated by a SHOCAP committee. A violation of this subsection shall be
608 punishable as a Class 3 misdemeanor.

609 **§ 18.2-371.2. Prohibiting purchase or possession of tobacco products, nicotine vapor**
610 **products, alternative nicotine products, and hemp products intended for smoking by a person under**
611 **21 years of age or sale of tobacco products, nicotine vapor products, alternative nicotine products,**
612 **and hemp products intended for smoking to persons under 21 years of age.**

613 A. No person shall sell to, distribute to, purchase for, or knowingly permit the purchase by any
614 person less than 21 years of age, knowing or having reason to believe that such person is less than 21 years
615 of age, any tobacco product, nicotine vapor product, alternative nicotine product, or hemp product
616 intended for smoking.

617 Tobacco products, nicotine vapor products, alternative nicotine products, and hemp products
618 intended for smoking may be sold from a vending machine only if the machine is (i) posted with a notice,
619 in a conspicuous manner and place, indicating that the purchase or possession of such products by persons
620 under 21 years of age is unlawful and (ii) located in a place that is not open to the general public and is
621 not generally accessible to persons under 21 years of age. An establishment that prohibits the presence of
622 persons under 21 years of age unless accompanied by a person 21 years of age or older is not open to the
623 general public.

624 B. No person less than 21 years of age shall attempt to purchase, purchase, or possess any tobacco
625 product, nicotine vapor product, alternative nicotine product, or hemp product intended for smoking. The
626 provisions of this subsection shall not be applicable to the possession of tobacco products, nicotine vapor
627 products, alternative nicotine products, or hemp products intended for smoking by a person less than 21
628 years of age (i) making a delivery of tobacco products, nicotine vapor products, alternative nicotine
629 products, or hemp products intended for smoking in pursuance of his employment or (ii) as part of a
630 scientific study being conducted by an organization for the purpose of medical research to further efforts
631 in cigarette and tobacco use prevention and cessation and tobacco product regulation, provided that such
632 medical research has been approved by an institutional review board pursuant to applicable federal
633 regulations or by a research review committee pursuant to Chapter 5.1 (§ 32.1-162.16 et seq.) of Title
634 32.1. This subsection shall not apply to purchase, attempt to purchase, or possession by a law-enforcement
635 officer or his agent when the same is necessary in the performance of his duties.

636 C. No person shall sell a tobacco product, nicotine vapor product, alternative nicotine product, or
637 hemp product intended for smoking to any individual who does not demonstrate, by producing a driver's
638 license or similar photo identification issued by a government agency, that the individual is at least 21
639 years of age. Such identification is not required from an individual whom the person has reason to believe
640 is at least 21 years of age or who the person knows is at least 21 years of age. Proof that the person
641 demanded, was shown, and reasonably relied upon a photo identification stating that the individual was
642 at least 21 years of age shall be a defense to any action brought under this subsection. In determining
643 whether a person had reason to believe an individual is at least 21 years of age, the trier of fact may

644 consider, but is not limited to, proof of the general appearance, facial characteristics, behavior, and manner
645 of the individual.

646 This subsection shall not apply to mail order or Internet sales, provided that the person offering
647 the tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
648 smoking for sale through mail order or the Internet (i) prior to the sale of the tobacco product, nicotine
649 vapor product, alternative nicotine product, or hemp product intended for smoking verifies that the
650 purchaser is at least 21 years of age through a commercially available database that is regularly used by
651 businesses or governmental entities for the purpose of age and identity verification and (ii) uses a method
652 of mailing, shipping, or delivery that requires the signature of a person at least 21 years of age before the
653 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
654 smoking will be released to the purchaser.

655 D. The provisions of subsections B and C shall not apply to the sale, giving, or furnishing of any
656 tobacco product, nicotine vapor product, alternative nicotine product, or hemp product intended for
657 smoking to any active duty military personnel who are 18 years of age or older. An identification card
658 issued by the Armed Forces of the United States shall be accepted as proof of age for this purpose.

659 E. A violation of subsection A or C by an individual or by a separate retail establishment that
660 involves a nicotine vapor product, alternative nicotine product, hemp product intended for smoking, or
661 tobacco product other than a bidi is punishable by a civil penalty not to exceed \$100 for a first violation,
662 a civil penalty not to exceed \$200 for a second violation, and a civil penalty not to exceed \$500 for a third
663 or subsequent violation.

664 A violation of subsection A or C by an individual or by a separate retail establishment that involves
665 the sale, distribution, or purchase of a bidi is punishable by a civil penalty in the amount of \$500 for a first
666 violation, a civil penalty in the amount of \$1,000 for a second violation, and a civil penalty in the amount
667 of \$2,500 for a third or subsequent violation. Where a defendant retail establishment offers proof that it
668 has trained its employees concerning the requirements of this section, the court shall suspend all of the
669 penalties imposed hereunder. However, where the court finds that a retail establishment has failed to so
670 train its employees, the court may impose a civil penalty not to exceed \$1,000 in lieu of any penalties

671 imposed hereunder for a violation of subsection A or C involving a nicotine vapor product, alternative
672 nicotine product, hemp product intended for smoking, or tobacco product other than a bidi.

673 A violation of subsection B is punishable by a civil penalty not to exceed \$100 for a first violation
674 and a civil penalty not to exceed \$250 for a second or subsequent violation. A court may, as an alternative
675 to the civil penalty, and upon motion of the defendant, prescribe the performance of up to 20 hours of
676 community service for a first violation of subsection B and up to 40 hours of community service for a
677 second or subsequent violation. If the defendant fails or refuses to complete the community service as
678 prescribed, the court may impose the civil penalty. Upon a violation of subsection B, the judge may enter
679 an order pursuant to subdivision A-9.8 of § 16.1-278.8.

680 Any attorney for the Commonwealth of the county or city in which an alleged violation occurred
681 may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law-
682 enforcement officer may issue a summons for a violation of subsection A, B, or C.

683 F. 1. Cigarettes and hemp products intended for smoking shall be sold only in sealed packages
684 provided by the manufacturer, with the required health warning. The proprietor of every retail
685 establishment that offers for sale any tobacco product, nicotine vapor product, alternative nicotine product,
686 or hemp product intended for smoking shall post in a conspicuous manner and place a sign or signs
687 indicating that the sale of tobacco products, nicotine vapor products, alternative nicotine products, or hemp
688 products intended for smoking to any person under 21 years of age is prohibited by law. Any attorney for
689 the county, city, or town in which an alleged violation of this subsection occurred may enforce this
690 subsection by civil action to recover a civil penalty not to exceed \$50. The civil penalty shall be paid into
691 the local treasury. No filing fee or other fee or cost shall be charged to the county, city, or town which
692 instituted the action.

693 2. For the purpose of compliance with regulations of the Substance Abuse and Mental Health
694 Services Administration published at 61 Federal Register 1492, the Department of Agriculture and
695 Consumer Services may promulgate regulations which allow the Department to undertake the activities
696 necessary to comply with such regulations.

697 3. Any attorney for the county, city, or town in which an alleged violation of this subsection
698 occurred may enforce this subsection by civil action to recover a civil penalty not to exceed \$100. The
699 civil penalty shall be paid into the local treasury. No filing fee or other fee or cost shall be charged to the
700 county, city, or town which instituted the action.

701 G. Nothing in this section shall be construed to create a private cause of action.

702 H. Agents of the Virginia Alcoholic Beverage Control Authority designated pursuant to § 4.1-105
703 may issue a summons for any violation of this section.

704 I. As used in this section:

705 "Alternative nicotine product" means any noncombustible product containing nicotine that is
706 intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

707 "Alternative nicotine product" does not include any nicotine vapor product, tobacco product, or product
708 regulated as a drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
709 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

710 "Bidi" means a product containing tobacco that is wrapped in temburni leaf (diospyros
711 melanoxyton) or tendu leaf (diospyros exculpra), or any other product that is offered to, or purchased by,
712 consumers as a bidi or beedie.

713 "Hemp product" means the same as that term is defined in § 3.2-4112.

714 "Nicotine vapor product" means any noncombustible product containing nicotine that employs a
715 heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means,
716 regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form.

717 "Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic
718 pipe, or similar product or device and any cartridge or other container of nicotine in a solution or other
719 form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo,
720 electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product
721 regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic
722 Act.

723 "Tobacco product" means any product made of tobacco and includes cigarettes, cigars, smokeless
724 tobacco, pipe tobacco, bidis, and wrappings. "Tobacco product" does not include any nicotine vapor
725 product, alternative nicotine product, or product that is regulated by the FDA under Chapter V (21 U.S.C.
726 § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

727 "Wrappings" includes papers made or sold for covering or rolling tobacco or other materials for
728 smoking in a manner similar to a cigarette or cigar.

729 **§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of**
730 **attorneys for the Commonwealth; duties of Department of Taxation.**

731 A. The clerk of the circuit court and district court of every county and city shall submit to the judge
732 of his court, the Department of Taxation, the State Compensation Board and the attorney for the
733 Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties ~~which~~
734 that are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in his
735 court for a violation of state law or a local ordinance ~~which~~ that remain unsatisfied, including those ~~which~~
736 that are delinquent in installment payments. The monthly report shall include the social security number
737 or driver's license number of the defendant, if known, and such other information as the Department of
738 Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report
739 required by this subsection on behalf of those clerks who participate in the Supreme Court's automated
740 information system.

741 B. The clerk of the circuit court and district court of every county and city shall submit quarterly
742 to the attorney for the Commonwealth of his county or city and any probation agency that serves such
743 county or city:

744 1. A list of all defendants with an outstanding balance of restitution ordered by the court served by
745 such clerk. Such report shall include the defendant's name, case number, total amount of restitution
746 ordered, amount of restitution remaining due, and last date of payment; and

747 2. A list of all accounts where more than 90 days have passed since an account was sent to
748 collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For

749 accounts where restitution is owed, such report shall include the defendant's name, case number, and total
750 amount of restitution and restitution interest due.

751 C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be
752 instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The
753 attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such
754 service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter
755 into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the
756 clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

757 If the attorney for the Commonwealth does not undertake collection, he shall contract with (i)
758 private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body,
759 (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of
760 Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office
761 of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation
762 and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow
763 the procedures established by the Department of Taxation and the Compensation Board. Such guidelines
764 shall not supersede contracts between attorneys for the Commonwealth and private attorneys and
765 collection agencies when active collection efforts are being undertaken. As part of such contract, private
766 attorneys or collection agencies shall be given access to the social security number of the defendant in
767 order to assist in the collection effort. Any such private attorney shall be subject to the penalties and
768 provisions of § 18.2-186.3.

769 The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis
770 out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency
771 receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act
772 (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney
773 for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

774 D. The Department of Taxation and the State Compensation Board shall be responsible for the
775 collection of any judgment ~~which~~ that remains unsatisfied or does not meet the conditions of § 19.2-354.

776 Persons owing such unsatisfied judgments or failing to comply with installment payment agreements
777 under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department
778 of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of
779 courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents
780 and may employ private attorneys or collection agencies, or engage other state agencies to collect the
781 judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for
782 services from amounts collected for violations of local ordinances.

783 The Department of Taxation and the State Compensation Board shall annually report to the
784 Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected,
785 and unpaid and those ~~which~~ that remain unsatisfied or do not meet the conditions of § 19.2-354 by each
786 circuit and district court. The report shall include the procedures established by the Department of
787 Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection
788 of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to
789 the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence
790 of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established
791 by the Department of Taxation and the State Compensation Board.

792 The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor,
793 the General Assembly, the Chairmen of the House Committee for Courts of Justice and Senate Committee
794 on the Judiciary, and the Virginia State Crime Commission on the total of restitution assessed, collected,
795 and unpaid for each circuit and district court and the total of restitution collected and deposited into the
796 Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1 by each circuit and district
797 court.

798 The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor
799 and General Assembly on the total fines and costs assessed in the preceding calendar year in all criminal
800 and traffic cases for each circuit court participating in the Office of the Executive Secretary's case
801 management system and for each general district court and juvenile and domestic relations district court.

802 Such report shall include the fines and costs assessed in the preceding calendar year by race of the
803 defendant.

804 E. The provisions of this section shall not apply to any orders of restitution docketed in the name
805 of the victim or when it is ordered that an assignment of the judgment for restitution to the victim be
806 docketed.

807 **§ 46.2-383. Courts to forward abstracts of records or furnish abstract data of conviction by**
808 **electronic means in certain cases; records in office of Department; inspection; clerk's fee for reports.**

809 A. In the event (i) a person is convicted of a charge described in subdivision A 1 or 2 of § 46.2-
810 382 or § 46.2-382.1, (ii) a person forfeits bail or collateral or other deposit to secure the defendant's
811 appearance on the charges, unless the conviction has been set aside or the forfeiture vacated, (iii) a court
812 assigns a defendant to a driver education program or alcohol treatment or rehabilitation program, or both
813 such programs, as authorized by § 18.2-271.1, (iv) compliance with the court's probation order is accepted
814 by the court in lieu of a conviction under § 18.2-266 or the requirements specified in § 18.2-271 as
815 provided in § 18.2-271.1, or (v) there is rendered a judgment for damages against a person as described in
816 § 46.2-382, every district court or clerk of a circuit court shall forward an abstract of the record to the
817 Commissioner within 18 days after such conviction, forfeiture, assignment, or acceptance, and in the case
818 of civil judgments, on the request of the judgment creditor or his attorney, within 30 days after judgment
819 has become final. No abstract of the record in a district court shall be forwarded to the Commissioner
820 unless the period allowed for an appeal has elapsed and no appeal has been perfected. On or after July 1,
821 2013, in the event that a conviction or adjudication has been nullified by separate order of the court, the
822 clerk shall forward to the Commissioner an abstract of that record.

823 B. Abstract data of conviction may be furnished to the Commissioner by electronic means provided
824 that the content of the abstract and the certification complies with the requirements of § 46.2-386. In cases
825 where the abstract data is furnished by electronic means, the paper abstract shall not be required to be
826 forwarded to the Commissioner. The Commissioner shall develop a method to ensure that all data is
827 received accurately. The Commissioner, with the approval of the Governor, may destroy the record of any
828 conviction, forfeiture, assignment, acceptance, or judgment, when three years has elapsed from the date

829 thereof, except records of conviction or forfeiture on charges of reckless driving and speeding, which
830 records may be destroyed when five years has elapsed from the date thereof, and further excepting those
831 records that alone, or in connection with other records, will require suspension or revocation or
832 disqualification of a license or registration under any applicable provisions of this title.

833 C. The records required to be kept may, in the discretion of the Commissioner, be kept by
834 electronic media or by photographic processes and when so done the abstract of the record may be
835 destroyed.

836 D. The Code section and description of an offense referenced in an abstract for any juvenile
837 adjudication obtained from a district court or clerk of circuit court pursuant to subdivision A-98 of § 16.1-
838 278.8, § 16.1-278.9, clause (iii) of subdivision A 1 of § 46.2-382, or any other provision of law that does
839 not involve an offense referenced in subsection A or an offense involving the operation of a motor vehicle
840 shall be available only to the person himself, his parent or guardian, law-enforcement officers, attorneys
841 for the Commonwealth, and courts.

842 **§ 46.2-808.2. Violations committed within highway safety corridor; report on benefits.**

843 Notwithstanding any other provision of law, the fine for any moving violation of any provision of
844 this chapter while operating a motor vehicle in a designated highway safety corridor pursuant to § 33.2-
845 253 shall be no more than \$500 for any violation that is a traffic infraction and not less than \$200 for any
846 violation that is a criminal offense unless such violation was committed by a juvenile. When a juvenile
847 has been found to be in violation of any provision of this chapter, the court may exercise discretion in the
848 imposition or amount of any fine.

849 The otherwise applicable fines set forth in Rule 3B:2 of the Rules of the Supreme Court shall be
850 doubled in the case of a waiver of appearance and a plea of guilty under § 16.1-69.40:1 or 19.2-254.2 for
851 a violation of a provision of this chapter while operating a motor vehicle in a designated highway safety
852 corridor pursuant to § 33.2-253. The Commissioner of Highways shall report, on an annual basis,
853 statistical data related to benefits derived from the designation of such highway safety corridors. This
854 information may be posted on the Virginia Department of Transportation's official website.

855 Notwithstanding the provisions of § 46.2-1300, the governing bodies of counties, cities, and towns may
856 not adopt ordinances providing for penalties under this section.

857 **§ 63.2-100. Definitions.**

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

859 "Abused or neglected child" means any child less than 18 years of age:

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

868 2. Whose parents or other person responsible for his care neglects or refuses to provide care
869 necessary for his health. However, no child who in good faith is under treatment solely by spiritual means
870 through prayer in accordance with the tenets and practices of a recognized church or religious
871 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a
872 decision by parents who have legal authority for the child or, in the absence of parents with legal authority
873 for the child, any person with legal authority for the child, who refuses a particular medical treatment for
874 a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such
875 decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has
876 reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical
877 treatment; (iii) the parents or other person with legal authority and the child have considered alternative
878 treatment options; and (iv) the parents or other person with legal authority and the child believe in good
879 faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit
880 the provisions of § 16.1-278.4;

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

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

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

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

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

896 If a civil proceeding under this title is based solely on the parent having left the child at a hospital
897 or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered
898 the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii)
899 an attended emergency medical services agency that employs emergency medical services providers, or
900 (iii) a newborn safety device located at and operated by such hospital or emergency medical services
901 agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption,
902 the court may find such a child is a neglected child upon the ground of abandonment.

903 "Adoptive home" means any family home selected and approved by a parent, local board or a
904 licensed child-placing agency for the placement of a child with the intent of adoption.

905 "Adoptive placement" means arranging for the care of a child who is in the custody of a child-
906 placing agency in an approved home for the purpose of adoption.

907 "Adult abuse" means the willful infliction of physical pain, injury or mental anguish or
908 unreasonable confinement of an adult as defined in § 63.2-1603.

909 "Adult day care center" means any facility that is either operated for profit or that desires licensure
910 and that provides supplementary care and protection during only a part of the day to four or more aged,
911 infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the
912 State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the
913 home or residence of an individual who cares for only persons related to him by blood or marriage.
914 Included in this definition are any two or more places, establishments or institutions owned, operated or
915 controlled by a single entity and providing such supplementary care and protection to a combined total of
916 four or more aged, infirm or disabled adults.

917 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as
918 defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit,
919 benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the
920 adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult
921 exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an
922 intentional failure to use the financial resources of an adult in a manner that results in neglect of such
923 adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the
924 use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or
925 services or perform services against his will for another's profit, benefit, or advantage if the adult did not
926 agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform
927 such services.

928 "Adult foster care" means room and board, supervision, and special services to an adult who has a
929 physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.
930 "Adult foster care" does not include services or support provided to individuals through the Fostering
931 Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

932 "Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances
933 that he is not able to provide for himself or is not being provided services necessary to maintain his
934 physical and mental health and that the failure to receive such necessary services impairs or threatens to
935 impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult

936 is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care,
937 provided that such treatment or care is performed in good faith and in accordance with the religious
938 practices of the adult and there is a written or oral expression of consent by that adult.

939 "Adult protective services" means services provided by the local department that are necessary to
940 protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

941 "Assisted living care" means a level of service provided by an assisted living facility for adults
942 who may have physical or mental impairments and require at least a moderate level of assistance with
943 activities of daily living.

944 "Assisted living facility" means any congregate residential setting that provides or coordinates
945 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
946 the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in
947 a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of
948 Health or the Department of Behavioral Health and Developmental Services, but including any portion of
949 such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only
950 persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled
951 persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped
952 pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility
953 under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv)
954 any housing project for persons 62 years of age or older or the disabled that provides no more than basic
955 coordination of care services and is funded by the U.S. Department of Housing and Urban Development,
956 by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in
957 this definition are any two or more places, establishments or institutions owned or operated by a single
958 entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled
959 adults. Maintenance or care means the protection, general supervision and oversight of the physical and
960 mental well-being of an aged, infirm or disabled individual.

961 "Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who
962 receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive
963 these benefits except for excess income.

964 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

965 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
966 parent(s) by previous adoption.

967 "Board" means the State Board of Social Services.

968 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
969 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
970 and meets the eligibility criteria set forth in § 63.2-919.

971 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes
972 or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
973 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
974 parents with the process of delegating parental and legal custodial powers of their children pursuant to
975 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
976 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title
977 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
978 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

979 "Child-protective services" means the identification, receipt and immediate response to complaints
980 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment,
981 and arranging for and providing necessary protective and rehabilitative services for a child and his family
982 when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

983 "Child support services" means any civil, criminal or administrative action taken by the Division
984 of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or
985 collect child support, or child and spousal support.

986 "Child-welfare agency" means a child-placing agency, children's residential facility, or
987 independent foster home.

988 "Children's residential facility" means any facility, child-caring institution, or group home that is
989 maintained for the purpose of receiving children separated from their parents or guardians for full-time
990 care, maintenance, protection and guidance, or for the purpose of providing independent living services
991 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.

992 Children's residential facility shall not include:

- 993 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,
994 return annually to the homes of their parents or guardians for not less than two months of summer vacation;
- 995 2. An establishment required to be licensed as a summer camp by § 35.1-18; and
- 996 3. A licensed or accredited hospital legally maintained as such.

997 "Commissioner" means the Commissioner of the Department, his designee or authorized
998 representative.

999 "Department" means the State Department of Social Services.

1000 "Department of Health and Human Services" means the Department of Health and Human
1001 Services of the United States government or any department or agency thereof that may hereafter be
1002 designated as the agency to administer the Social Security Act, as amended.

1003 "Disposable income" means that part of the income due and payable of any individual remaining
1004 after the deduction of any amount required by law to be withheld.

1005 "Energy assistance" means benefits to assist low-income households with their home heating and
1006 cooling needs, including, but not limited to, purchase of materials or substances used for home heating,
1007 repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or
1008 repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance
1009 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the
1010 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

1011 "Family and permanency team" means the group of individuals assembled by the local department
1012 to assist with determining planning and placement options for a child, which shall include, as appropriate,
1013 all biological relatives and fictive kin of the child, as well as any professionals who have served as a
1014 resource to the child or his family, such as teachers, medical or mental health providers, and clergy

1015 members. In the case of a child who is 14 years of age or older, the family and permanency team shall
1016 also include any members of the child's case planning team that were selected by the child in accordance
1017 with subsection A of § 16.1-281.

1018 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42
1019 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in
1020 accordance with § 63.2-1305, payments to eligible individuals who have received custody of a child of
1021 whom they had been the foster parents.

1022 "Fictive kin" means persons who are not related to a child by blood or adoption but have an
1023 established relationship with the child or his family.

1024 "Foster care placement" means placement of a child through (i) an agreement between the parents
1025 or guardians and the local board where legal custody remains with the parents or guardians or (ii) an
1026 entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care
1027 placement" does not include placement of a child in accordance with a power of attorney pursuant to
1028 Chapter 10 (§ 20-166 et seq.) of Title 20.

1029 "Foster home" means a residence approved by a child-placing agency or local board in which any
1030 child, other than a child by birth or adoption of such person or a child who is the subject of a power of
1031 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural
1032 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of
1033 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without
1034 compensation, resides as a member of the household.

1035 "General relief" means money payments and other forms of relief made to those persons mentioned
1036 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-
1037 401.

1038 "Independent foster home" means a private family home in which any child, other than a child by
1039 birth or adoption of such person, resides as a member of the household and has been placed therein
1040 independently of a child-placing agency except (i) a home in which are received only children related by
1041 birth or adoption of the person who maintains such home and children of personal friends of such person;

1042 (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of
1043 § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A-~~13~~12 of § 16.1-278.8; and (iii) a home in
1044 which are received only children who are the subject of a properly executed power of attorney pursuant
1045 to Chapter 10 (§ 20-166 et seq.) of Title 20.

1046 "Independent living" means a planned program of services designed to assist a child age 16 and
1047 over and persons who are former foster care children or were formerly committed to the Department of
1048 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

1049 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
1050 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
1051 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed
1052 to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile
1053 Justice, in a living arrangement in which such child or person does not have daily substitute parental
1054 supervision.

1055 "Independent living services" means services and activities provided to a child in foster care 14
1056 years of age or older who was committed or entrusted to a local board of social services, child welfare
1057 agency, or private child-placing agency. "Independent living services" may also mean services and
1058 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the
1059 age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to
1060 the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child
1061 at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department
1062 of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services
1063 shall include counseling, education, housing, employment, and money management skills development,
1064 access to essential documents, and other appropriate services to help children or persons prepare for self-
1065 sufficiency.

1066 "Independent physician" means a physician who is chosen by the resident of the assisted living
1067 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner,
1068 officer, or employee or as an independent contractor with the residence.

1069 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or
1070 foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other
1071 entity authorized to make such placements in accordance with the laws of the foreign country under which
1072 it operates.

1073 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster
1074 care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out
1075 of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
1076 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
1077 action of any court.

1078 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

1079 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
1080 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
1081 acting as the child's foster parent.

1082 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-
1083 1306 between a child and an adult relative of the child who has formerly acted as the child's foster parent
1084 that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
1085 relative of the child of the authority necessary to ensure the protection, education, care and control, and
1086 custody of the child and the authority for decision making for the child.

1087 "Local board" means the local board of social services representing one or more counties or cities.

1088 "Local department" means the local department of social services of any county or city in this
1089 Commonwealth.

1090 "Local director" means the director or his designated representative of the local department of the
1091 city or county.

1092 "Merit system plan" means those regulations adopted by the Board in the development and
1093 operation of a system of personnel administration meeting requirements of the federal Office of Personnel
1094 Management.

1095 "Parental placement" means locating or effecting the placement of a child or the placing of a child
1096 in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

1097 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to
1098 the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services;
1099 child care; and general relief.

1100 "Qualified assessor" means an entity contracting with the Department of Medical Assistance
1101 Services to perform nursing facility pre-admission screening or to complete the uniform assessment
1102 instrument for a home and community-based waiver program, including an independent physician
1103 contracting with the Department of Medical Assistance Services to complete the uniform assessment
1104 instrument for residents of assisted living facilities, or any hospital that has contracted with the Department
1105 of Medical Assistance Services to perform nursing facility pre-admission screenings.

1106 "Qualified individual" means a trained professional or licensed clinician who is not an employee
1107 of the local board of social services or licensed child-placing agency that placed the child in a qualified
1108 residential treatment program and is not affiliated with any placement setting in which children are placed
1109 by such local board of social services or licensed child-placing agency.

1110 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
1111 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
1112 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
1113 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
1114 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
1115 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
1116 outreach with the child's family members, including efforts to maintain connections between the child and
1117 his siblings and other family; documents and maintains records of such outreach efforts; and maintains
1118 contact information for any known biological family and fictive kin of the child; (v) whenever appropriate
1119 and in the best interest of the child, facilitates participation by family members in the child's treatment
1120 program before and after discharge and documents the manner in which such participation is facilitated;
1121 (vi) provides discharge planning and family-based aftercare support for at least six months after discharge;

1122 (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by
1123 the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the
1124 program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses
1125 the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional
1126 assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the
1127 child can be met through placement with a family member or in a foster home or, if not, in a placement
1128 setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that
1129 would provide the most effective and appropriate level of care for the child in the least restrictive
1130 environment and be consistent with the short-term and long-term goals established for the child in his
1131 foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral
1132 health goals for the child; and (d) is documented in a written report to be filed with the court prior to any
1133 hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

1134 "Residential living care" means a level of service provided by an assisted living facility for adults
1135 who may have physical or mental impairments and require only minimal assistance with the activities of
1136 daily living. The definition of "residential living care" includes the services provided by independent
1137 living facilities that voluntarily become licensed.

1138 "Sibling" means each of two or more children having one or more parents in common.

1139 "Social services" means foster care, adoption, adoption assistance, child-protective services,
1140 domestic violence services, or any other services program implemented in accordance with regulations
1141 adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et
1142 seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter
1143 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under
1144 the supervision of the Commissioner for Aging and Rehabilitative Services.

1145 "Special order" means an order imposing an administrative sanction issued to any party licensed
1146 pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special
1147 order shall be considered a case decision as defined in § 2.2-4001.

1148 "State-Funded Kinship Guardianship Assistance program" means a program that provides
1149 payments to eligible individuals who have received custody of a relative child subject to a kinship
1150 guardianship assistance agreement developed in accordance with § 63.2-1306.

1151 "Supervised independent living setting" means the residence of a person 18 years of age or older
1152 who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter
1153 9 where supervision includes a monthly visit with a service worker or, when appropriate, contracted
1154 supervision. "Supervised independent living setting" does not include residential facilities or group homes.

1155 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
1156 Department through which a relative can receive monthly cash assistance for the support of his eligible
1157 children.

1158 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the
1159 Temporary Assistance for Needy Families program for families in which both natural or adoptive parents
1160 of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work
1161 (VIEW) participation under § 63.2-609.

1162 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social
1163 Security Act, as amended, and administered by the Department through which foster care is provided on
1164 behalf of qualifying children.

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