REGIONAL JUVENILE AND DOMESTIC RELATIONS COURTS

REPORT OF THE

VIRGINIA ADVISORY LEGISLATIVE COUNCIL

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1967

MEMBERS OF COUNCIL

TOM FROST, *Chairman*

CHARLES R. FENWICK, *Vice-Chairman*

C. W. CLEATON

JOHN WARREN COOKE

JOHN H. DANIEL

J. D. HAGOOD

CHARLES K. HUTCHENS

J. C. HUTCHESON

GARNETT S. MOORE

LEWIS A. McMURRAN, JR.

SAM E. POPE

ARTHUR H. RICHARDSON

WILLIAM F. STONE

EDWARD E. WILLEY

STAFF

G. M. LAPSLEY
WILDMAN S. KINCHELOE, JR.
ROBERT L. MASDEN
FRANK R. DUNHAM
MARY R. SPAIN
DANIEL E. BRAY, JR.

REGIONAL JUVENILE AND DOMESTIC RELATIONS COURTS

REPORT OF
THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, October 19, 1967.

To:
HONORABLE MILLS E. GODWIN, JR., *Governor of Virginia*
and
THE GENERAL ASSEMBLY OF VIRGINIA

Since 1960 when legislation was first enacted to permit the formation of regional juvenile and domestic relations courts (hereafter called regional juvenile courts), members of the judiciary, legislators, State and local officials and the public have studied and worked to develop the regional juvenile court concept as a means to provide probation and related services on a more effective basis throughout the State. The initial 1960 legislation was amended extensively in 1964, and it was specifically provided that the salaries of regional juvenile court probation personnel would be paid entirely by the State rather than one-half by the county or city and one-half by the State as is the case for regular juvenile and domestic relations courts (hereafter called juvenile courts). Thus, localities unable to afford or perhaps even to justify employing full-time probation staffing were permitted and encouraged to form regional juvenile courts and at no cost to themselves to obtain probation services for their area.

Continuing concern respecting the administration and organization of the regional juvenile court system produced a study by the Virginia Advisory Legislative Council and its Report to the 1966 General Assembly. That Report called for a moratorium on the formation of new regional juvenile courts pending a full study on the desirability of forming a State-established system of regional juvenile courts to replace the current local option system or of forming a system of family courts with jurisdiction broadened beyond that of existing juvenile courts to include adoption and divorce proceedings. These proposals for a moratorium and broad study were rejected by the General Assembly.

Following the 1966 Session, the Governor requested the Council to reexamine the regional juvenile court system and noted the fact that the 1964 regional juvenile court legislation does not include criteria to govern the establishment of regional juvenile courts by the localities with respect to such matters as the contiguity of the localities establishing the court. A copy of the Governor's letter to the Chairman of the Council follows:

COMMONWEALTH OF VIRGINIA
GOVERNOR'S OFFICE
RICHMOND

June 10, 1966.

The Honorable Thomas N. Frost
Warrenton, Virginia

Dear Tom:

The Virginia Advisory Legislative Council made a report to the 1966 General Assembly on its study of regional juvenile and domestic relations courts. Legislation was offered pursuant to the report but failed of passage.

Under the existing law the cities and Arlington County have their own juvenile and domestic relations courts and bear fifty per cent of the cost. In most of the counties the county court has dual jurisdiction, serving both as a juvenile and domestic relations court and the county court. In 1964 the Regional Juvenile and Domestic Relations Act was passed permitting any county or any city or any combination of the two, regardless of their being contiguous to form a regional court with the expenses being borne entirely by the State.

The report to the 1966 Assembly recommended a moratorium on the formation of such courts but as indicated above the proposal was not adopted.

The problems associated with the existing law are apparent, and I feel justify a further study by the Virginia Advisory Legislative Council which I hereby respectfully request with a report to be submitted to the Governor and the regular session of 1968.

Sincerely yours,

/S/ Mills E. Godwin, Jr.

The Council appointed John Warren Cooke of Mathews, member of the Council and the House of Delegates, to serve as Chairman of the Committee to make a preliminary study and report to it. Selected to serve with Mr. Cooke on the Committee were C. Braxton Valentine, Jr., attorney, Richmond; Herman T. Benn, attorney, Richmond; Mrs. W. Hamilton Crockford, III, Richmond; Mrs. Charles H. Elmore, Bon Air; Charles R. Fenwick, member of the Council and Senate, Arlington; William H. Hodges, member of the Senate, Chesapeake; James H. Montgomery, Jr., attorney, Richmond; Garnett S. Moore, member of the Council and House of Delegates, Pulaski; Mrs. Mary Alice Roberts, Roanoke; and John G. Sowder, Judge, New Kent County Court, Providence Forge.

Mr. Valentine was elected Vice-Chairman of the Committee; G. M. Lapsley and Mary Spain served as Secretary and Recording Secretary, respectively.

The Committee conferred extensively with experts in the field of juvenile court work including judges and representatives of the Department of Welfare and Institutions.

In response to the Committee's request for its recommendations, the Department of Welfare and Institutions submitted an initial plan which advocated a State-wide program of regional juvenile courts leading to

creation of a uniform State-wide system of family courts. Committee representatives conferred with Department officials and requested a more detailed plan focusing on the State-wide program of regional juvenile courts and eliminating consideration of family courts. The Department prepared an addendum which spelled out in more detail than its initial proposal the establishment of a complete State-wide system of regional juvenile courts including estimates of the time, personnel and costs involved in its establishment. Both of these presentations were of extreme interest and use to both the Committee and Council.

Nevertheless, both the Committee and the Council reached a consensus that numerous factors militate against the advisability at this time of recommending any major alteration of Virginia's present voluntary regional juvenile court system, such as shifting to a mandatory State-wide system, altering regional juvenile court jurisdiction or expanding the scope of social services for the courts (all possible steps toward what may ultimately prove desirable, namely, a family court system).

The theoretical views brought forth before the Committee and Council on the proper future course for Virginia's juvenile court program reflect an extremely complex range of opinions. At the extremes, some favor greater emphasis on the existing local county court system while others prefer immediate steps to develop a system of State-wide family courts of record. Lack of time, expertise and facilities prevented sufficient study in depth of these conflicting theories to support our recommending one approach as the ultimate means to establish a sounder juvenile court program for Virginia.

The recommendations contained in this Report serve two purposes: (a) to provide the proper mechanism for conducting an expert and complete study of our entire juvenile court program and to outline the specific areas which require study; and (b) to take certain practical, short-range steps to provide sensible guidelines for the voluntary establishment of additional regional juvenile courts, to improve and strengthen certain aspects of the regional juvenile court system and to support increases in the supportive services available to both regional and individual juvenile courts.

Part I of this report sets forth our specific recommendations in summary form. Part II elaborates on each recommendation through (a) presentation of the reasons supporting each recommendation and (b) discussion of how the recommendation may affect the more controversial questions involved in determining the proper future course for Virginia's juvenile court program.

I

Recommendations

(A) Legislation should be enacted by the 1968 General Assembly to create a commission composed of representatives of the judiciary, State Bar, State Bar Association, the medical profession, social workers and lawyers closely concerned with juvenile and domestic relations matters. This commission should give careful and expert consideration to (1) proposals calling for establishment of a State-wide system of regional or district juvenile and domestic relations courts or family courts with additional jurisdiction to consider divorce and adoption; (2) matters concerning the jurisdiction and status of these courts and the impact on the existing county courts and courts of record of any changes in jurisdiction or status of the juvenile courts; (3) the problem of the constitutional due

process requirements to which juvenile courts must adhere in light of developing case law and concepts involving the conflicts between due process legal rights of juveniles and non-legal rehabilitative treatment and theory which tend towards less formalized procedures; (4) the relation of federal programs to the State juvenile court system; and (5) the ways and means to provide courts dealing with juveniles (and certain adults when a family court system is considered) proper supportive services including questions of what services are desirable (probation, social welfare, psychiatric, psychological, educational), what services are and can be made available, how such services should be administered (by the court itself, the Department of Welfare and Institutions, the localities or a hybrid arrangement) and how these services are to be financed (by the State, or localities, or both).

(B) Specific criteria should be adopted for the creation of regional juvenile courts on a more consistent basis by amending § 16.1-143.1 to include:

(1) the requirement that those cities and/or counties combining to form a regional juvenile court be contiguous,

(2) a minimum population requirement of 60,000 persons for the combined, participating political subdivisions,

(3) a maximum population limitation of 60,000 to apply to any single political subdivision desiring to participate,

(4) a "grandfather clause" to preserve existing regional juvenile courts which may not meet these requirements, and

(5) a provision for waiving the statutory minimum of 60,000 people where peculiar geographic considerations are involved.

(C) The participating localities, on mutual agreement, should be authorized to supplement the salary of the judge of their regional juvenile court.

(D) Provision should be made to ensure that no problem arises regarding dual jurisdiction in the regional juvenile court and the courts of the participating localities which formerly exercised such jurisdiction by vesting jurisdiction exclusively in the regional juvenile court.

(E) The Code should be amended to reflect a legislative intent that any reduction in the case load of a county court judge in office at the time of the establishment of a regional juvenile court should not be a basis for a reduction in his salary.

(F) Section 16.1-143.3 should be amended to clarify the status of employees of the regional juvenile courts as State employees, not only with respect to retirement, insurance and workmen's compensation, but also for limited application of the Virginia Personnel Act; and probation officers' salaries should be fixed under the Act and by the Department rather than by the Committee of Judges.

(G) Committees composed of local citizens should be appointed by the judge of each regional or individual juvenile court to advise the judge of the availability and performance of community services of which the court can make use and to inform the community of the workings and needs of the court.

(H) Insofar as possible, the Department of Welfare and Institutions should make available to all courts exercising juvenile and domestic relations jurisdiction its consultant services to the end that probation services are provided to all such courts.

II

Recommendations: Reasoning and Discussion

We will review each of our proposals in the order given above. One section of this review will cover the reasons in support of the recommendation and a second section will offer discussion on the implications of the recommendation vis-a-vis some of the more complex problems and theories of juvenile correction or rehabilitation.

(A) The Expert Study Commission

(1) Reasoning

For the long run, the most significant recommendation which we offer is for the creation of an expert commission equipped with a comprehensive mandate to conduct a complete review of the State's juvenile court structure.

As a necessary adjunct to our review of the State's regional juvenile courts, we considered a spectrum of court systems from family courts, whose jurisdiction might include divorce and adoption proceedings, to the now prevalent local or county juvenile courts inaugurated in Virginia in 1922 and whose jurisdiction does not include matters of divorce or adoption. We reviewed the functions which are and should be assigned to these courts.

Our study of the situation included very valuable firsthand information from members of the Committee, the testimony of interested witnesses, the information furnished by the Department of Welfare and Institutions, and studies by other related groups, treatises and case law on the subject.

The information at hand revealed no particular dissatisfaction with the operation of existing juvenile courts as constituted back in 1922. We did, however, find basis for questioning whether the scope of the function of our juvenile courts as originally conceived is now broad enough to perform all the related services generally recognized to be needed in our communities today.

As originally conceived, it appears that juvenile courts were intended to solve the many problems that flow from the breakdown of family relations. As knowledge with respect to the prevention of such breakdowns has increased and more experience has been gained in rehabilitation, clear evidence has accumulated that the courts alone cannot prevent delinquency among young people. With respect to those who have committed an offense of such seriousness to bring them within the jurisdiction of a court, the statistical fact of continued, repeated delinquencies has caused considerable concern about incarceration of young people, particularly in the absence of extensive and costly rehabilitative facilities. The existence of adequately staffed treatment facilities to which a juvenile can be committed, generally speaking, is thought to be the only proper basis for incarceration and of equal importance in cases where incarceration may be indicated, the only justification for relaxation of the same constitutional guarantees of due process accorded adults in a strictly adversary legal proceeding.

In the absence of treatment facilities a compelling case can be made for dismissal of juveniles, although we do not suggest that dismissal is an acceptable substitute for treatment. However, such is the warning sounded by recent case law to those who with unquestionable motivation, but where adequate facilities are not available, have nevertheless felt

constrained to intervene in the lives of juveniles both for their own protection and the protection of the public. The urgency inherent in this situation must be brought to the attention of all thoughtful citizens.

In addition, with respect to the present system, it was pointed out that many youngsters desperately in need of supervision and help, but who have not yet committed any offense, often do not come within the jurisdiction of a court, and in some instances are beyond the reach of what help there is now available. There is also evidence that it is this latter category which is most generally thought to be receptive to rehabilitative or preventive treatment.

It was at the point of consideration of the problems of reconciliation of court authority with preventive help that the full magnitude of the complexity of any undertaking to modify the existing jurisdiction and services performed by juvenile courts became apparent. With respect to court supervision of treatment, which seems to be the trend, judges are confronted with demands not generally considered to be within the scope of the competence of a judgeship, and court supervision of therapy also involves extension of court jurisdiction beyond what is presently contemplated by law. If the desirability of such a transformation of our juvenile courts can be established, and also assuming the existence of more staffed facilities than are now available, constitutional and practical considerations will require a redefinition of the relationships between police authority, attorney and client, attorney and judge, judge and probation officer, social workers and professional therapists, entirely apart from the question whether a local, regional or State-wide system of juvenile or family relations type courts is to be inaugurated. Regardless of which of the three latter possibilities is found to be most suitable for Virginia, it is believed that the utmost care, thought and planning by legal, professional and other competent lay minds in conjunction with representatives of the various State agencies involved will be required in the creation of the mechanism for court supervision of treatment lest a self-defeating bureaucracy be the result.

All these related points add up to a very cryptic statement of an exceedingly complex problem to be faced as expeditiously as practical. While we conclude that the need for a practical plan is both clear and urgent, it should also be recognized that the matter will not lend itself to a so-called crash program, but rather should be undertaken in steps which can be carefully planned, financed and executed, as not even the availability of unlimited funds could solve overnight the training of personnel to do the job.

The foregoing are some of the reasons why the Council urges the creation of an adequately financed study group capable of conducting exhaustive research into the following matters:

(1) What court structure will best serve to carry out the functions which should be assigned to our courts in this field. The available alternatives include, at least, our present system, a State-wide regional juvenile court structure and a system of family courts.

(2) What impact will changes in our juvenile courts have on other courts. For example, if regional courts are established throughout the State what will be the effect on our county courts; if family courts are established should they be courts of record equivalent to our circuit and corporation courts.

(3) How do our present juvenile court procedures and how will any proposed court structure and accompanying procedures measure up in

terms of emerging case law stemming from the Supreme Court's decisions in this field including *In re Gault*, 87 S. Ct. 1428 (1967).

(4) What part can and should federal programs play in supporting our goal of a soundly conceived and functioning juvenile or family court system.

(5) Most importantly, what should be the scope of the functions assigned to and expected of these courts. How do we provide the proper supportive services to these courts to deal with juveniles and adults who are involved in family problems bearing closely on juvenile behavior. What services can we make available. What services should be made available. How, precisely, should such services be administered and financed.

In sum, how and where should we invest our assets in these courts to gain the best return on our investment in terms of reduced delinquency, salvaged potential delinquents, sounder solutions to family problems and protection for society. These are the involved, complex problems which should be considered with extreme care, by the expert study commission created in the legislation in Appendix I, before concrete major improvements can be undertaken with assurance.

Members of the proposed commission should include representatives from the judiciary, State Bar, State Bar Association, the medical profession, social workers and lawyers. The commission should be authorized to employ consultants and to obtain outside assistance in its work. It should be backed by a reasonable appropriation of $50,000 to carry out its work during the coming biennium.

(2) Discussion

This proposal has no immediate impact on the existing juvenile court program and does not favor any particular theory of juvenile court operation. We consider this recommendation as desirable from every point of view and of utmost importance.

(B) Criteria for Establishing Regional Juvenile Courts

(1) Reasoning

We recommend that the localities which desire to form a regional juvenile court be required to be contiguous and possess a combined population of 60,000 and be limited to 60,000 in population for any individual locality desiring to participate. These criteria are, we suggest, the most reasonable and the minimum which should be adopted as statutory prerequisites for the establishment of any regional juvenile court.

The current program of regional juvenile courts came into effect in 1960 with the adoption of § 16.1-143.1. That section gave little detail on the establishment and operation of such courts and was amended and considerably expanded in 1964 with the adoption of §§ 16.1-143.2 through 16.1-143.7.

These revised provisions outlined no standards for establishment of these courts and continued to present administrative problems as evidenced in the resolution calling for study by the Council prior to the 1966 Session. The Council's 1966 Report did not attempt to define any such standards but instead recommended the passage of legislation to fix a moratorium on the establishment of further courts pending a major study of the entire juvenile court system looking toward a State-wide regional

juvenile or family court system. Neither the requested legislation for a moratorium nor the resolution for an overall study passed in 1966.

Governor Godwin's letter, requesting this study and that the Council again consider this area, reiterated the question of what are appropriate criteria for the establishment of these courts.

We believe the minimal requirements we suggest will assure a more sensible development of the regional juvenile court system. The participating localities, at the least, should form a compact area where unnecessary staff travel is avoided, and contain population and potential case load sufficient to justify a full-time probation officer and permit development of in-take and related services. The logic of the requirement for contiguity is obvious and we simply note that as early as 1922 contiguity was required in the establishment of joint juvenile and domestic relations courts under the old special justice system (Chapter 483, Acts of 1922).

The minimum population of 60,000, according to the proposals which the Department submitted to us, presents a sound basis on which to project a reasonable work load for a regional juvenile court and its probation staff. By setting a minimum requirement, we ward off a possible proliferation of small regions whose potential case load and work load for the court and the probation staff do not justify the State's added financial investment. This holds true particularly with respect to the court, for each new regional court means a new judge and added staff for the Commonwealth to support. We recognize certain areas of sparse population and unusual geographic conditions may find this figure prohibitive, and have included a proviso whereby the Board of Welfare and Institutions is authorized to waive this minimum population requirement in such unusual circumstances.

We also suggest the adoption of a maximum population figure to prohibit individual localities with a population exceeding 60,000 from shifting to the regional system. We believe the basic design of the present regional juvenile court system calls for the limitation of the system to the smaller cities and counties whose own population may not justify special juvenile court personnel, including both judges and probation staff members. Separate juvenile courts have already been established in some of our larger political subdivisions, and we have no desire to affect their operations.

An additional technical amendment—a "grandfather clause"— should be included while adding these criteria to protect the regional juvenile courts which have already been formed under existing law.

The second bill in Appendix I amends § 16.1-143.1 to include the recommended criteria.

(2) Discussion

As stated above these are only minimum criteria for establishing additional regional juvenile courts on the existing permissive basis. All we seek here is a more rational basis for the local establishment of the courts without trying either to encourage or discourage their formation.

We are not attempting to strengthen these courts to the point of their serving as a springboard to a State-wide and State-organized system. We believe the recommended study is a prerequisite to deciding on such a program.

(C) Supplementation of Judges' Salaries

(1) Reasoning

We recommend that the regional juvenile court law be amended to permit supplementation of the judges' salaries by participating localities. Precedent for local supplements lies in § 16.1-43.1 under which both Fairfax and Arlington are now permitted to supplement the salaries of the judges and employees of their juvenile courts. We believe that the efforts of any region to attract the best qualified individuals to serve on a regional court should be encouraged by giving them similar leeway to supplement such salaries without such supplementation affecting any salary paid by the State.

The third bill in Appendix I amends § 16.1-143.3 to effect this recommendation.

(2) Discussion

The immediate impact of permitting such supplementation is to encourage local support of these regional courts and the best efforts of the localities to attract and keep qualified judges.

Going a step beyond this point, however, the proposal may be argued to be potentially harmful to the individual county juvenile courts in that the regional juvenile court is given authority to outbid county courts in employing judges. This argument is one aspect of the larger question, which we would place before an expert commission, of what effect regional juvenile courts have on the county court system and courts not of record.

In this series of recommendations, we attempt to balance this particular proposal by others designed to strengthen the county court system—in particular, Recommendation (E) for maintaining stability in county court judges' salaries.

(D) Clarification of Jurisdiction

(1) Reasoning

We recommend a statutory amendment to state clearly that presently enumerated jurisdiction over juvenile and domestic relations matters be exclusive with the regional juvenile court once it is established in a locale. The statutes currently do not specify whether the county or city courts in such a locale surrender juvenile and domestic relations jurisdiction.

Clarity is desirable to assure that the regional juvenile court's jurisdiction is firmly established. In addition, such jurisdiction should be centered in the regional juvenile court where adequate probation services and other appropriate facilities and services are available. The furnishing of specialized probation personnel is a basic reason for the regional juvenile court system, and once such a court is established the availability of such personnel is a persuasive argument for placing all juvenile jurisdiction with such court.

The fourth bill in Appendix I amends § 16.1-143.2 respecting this point.

(2) Discussion

The impact of this recommendation is limited and does not, we believe, go beyond the technical jurisdictional problem to reach the more theoretical problems earlier discussed.

(E) County Court Judges' Salaries

(1) Reasoning

One matter which has caused considerable concern is the effect on the county court system of establishing regional juvenile courts. The regional juvenile court law provides that the salaries for the regional juvenile court judge shall be established by the Committee of Judges which fixes county court judges' salaries at an amount which may reach the level of salaries paid to circuit court judges. This means that regional juvenile court judges can be paid salaries exceeding the statutory maximums payable to the county court judges. We believe that, while this higher salary range is justified by the potential work load involved in a regional operation, the Legislature should make plain its intention that the potential reduction in case load for the county court judges in the localities establishing a regional juvenile court should not affect the salary to be paid to such judges. Otherwise, the county court system may be adversely affected by the establishment of regional juvenile courts and may even be occasioned to oppose formation of the regional juvenile courts. Thus by assuring no immediately unfavorable effect on the county court judges through establishment of a regional juvenile court, both systems should be strengthened by warding off opposition to the regional system and by lending some security to the county court system.

The fifth bill in Appendix I adds a new section to the Code of Virginia to cover this recommendation.

(2) Discussion

While the above recommendation offers potential benefit to both systems of juvenile courts, the question remains whether long-range State policy is best served by this type of double expenditure. Again, we face one of the major issues for expert study—how best to finance and organize our juvenile court structure.

Since we limit the effect of this recommendation to the county court judges in office at the time of formation of a regional juvenile court, however, the underlying double State expenditure is, we feel, held to a minimum and offset by the benefit to both systems. The problem of overlapping expenditures here is not a major problem in itself but rather symptomatic of the problems inherent in our past approach to forming juvenile courts on one basis for cities, one for counties and yet one more for rural regions.

(F) State employees

(1) Reasoning

The status of regional juvenile court employees is unclear as the law stands. While the State pays the salaries of the judges, clerks, probation officers and other employees of the court out of the appropriation for criminal charges (§ 16.1-143.3), the employer-employee relation of the State to these individuals has been uncertain since the inception of the program.

The judge of the court is selected by the courts of record of the localities involved (§ 16.1-143.6), and he in turn appoints the other employees of the court. These individuals are often viewed as working for the region or group of political subdivisions forming the region.

Their unusual situation creates definite problems for these individuals which can render work for the regional juvenile courts less attractive. For example, certain aspects of this problem were cured by the General

Assembly in 1966 in following recommendations of the Council. Amendments to the State's Workmen's Compensation Law and the Virginia Supplemental Retirement System Act were enacted to provide workmen's compensation, retirement and insurance coverage for the personnel of the regional juvenile courts.

The reason for turning to the State as a reference point for this group is that joint action on the part of the localities is oftentimes difficult and impractical to obtain, and to wait for approval and mutual agreement on such technical questions as requirement places the regional juvenile court personnel at a disadvantage vis-a-vis other public employees responsible to only one employer.

We recommend the following further steps to clarify the status of these individuals: (1) a statement in the statutes that these individuals, including the judges, are State employees; (2) reference to the Virginia Personnel Act to the effect that these employees, other than the judges who are specifically excluded from its provisions by that Act itself, shall have their salaries fixed by the Committee of Judges in accord with standards of classification under the Act; and (3) provision that the salaries of probation officers for such courts shall be fixed by the Department of Welfare and Institutions, rather than the Committee of Judges, according to such standards of classification in view of the Department's particular expertise and experience in this area.

The third bill in Appendix I contains proposed amendments to § 16.1-143.3 to incorporate these recommendations.

(2) Discussion

The fundamental questions whether the State should assume complete responsibility for these courts and whether the State or locality should initiate their formation underlie the simpler question to which this recommendation is directed. We suggest that while the immediate question of the status of these employees can be handled through amendment of § 16.1-143.3, these larger questions should be considered at length. We operate now in the regional juvenile court system under what was, in effect, a crash program to afford better juvenile court facilities and probation services to certain localities. The program was not fully thought out originally either regarding the problem of employee status or with respect to these other larger problems which should be considered by the commission we recommend.

(G) Citizen Advisory Groups

(1) Reasoning

Currently juvenile and domestic relations courts have authority through § 16.1-157 to appoint a board of citizens from the locality to advise and assist the court. We believe this section should be made mandatory and revised to require the court to appoint an advisory committee for the region served by a regional juvenile court or the political subdivision served by a juvenile and domestic relations court. The usefulness of such a committee in advising the court on the availability of social services within the localities serviced by the court and the advantages of having a group of citizens available to inform the community of the work of the court more than warrant the provision that such committees shall be appointed, rather than may be appointed, in the localities of the State.

We would further alter the section to provide that a member of the local governing body or bodies and welfare department or departments in

the locality or localities involved in the jurisdiction of the court should be represented on the advisory committee. Since the services available in the community are often involved in both the local governing process and connected to the welfare department, such representation would be very vital to the functioning of the court and would enable the court to take advantage of all available local mental health, welfare, social service and psychiatric help available.

The sixth bill in Appendix I amends § 16.1-157 to this end.

(2) Discussion

The thrust of this recommendation is to involve the citizens of the locality in the workings of the juvenile court. Whether the court itself is a State or local agency the need for local awareness is the same. If it should evolve that the State would organize and assume more direct responsibility for a uniform, State-wide system of juvenile courts, there would be an equal or greater need for local involvement of this kind if the local responsibility for such courts is lessened.

(H) Probation Staffing

(1) Reasoning

An underlying reason for the establishment of the regional juvenile court system was to provide probation services to localities unable or unwilling to pay the expenses involved in staffing their own juvenile and domestic relations courts. We would urge the State to continue its efforts to meet its responsibilities in this area through increased appropriations to the Department of Welfare and Institutions to finance the program of the Department through which consultation services are provided to regional and county juvenile courts on such matters as minimum standards for probation personnel, size of staff and orientation and training of personnel so that the services of the Department may be made available to all individual county-juvenile as well as regional juvenile courts to the fullest possible extent.

Increased appropriations in this area could, we hope, also be used to stimulate recruitment of qualified probation officers who could then be made available under the provisions of §§ 16.1-203 and 16.1-205 to the juvenile and regional juvenile courts.

Money is needed now to recruit qualified individuals and attract them to the juvenile probation field and their services are needed now in the existing juvenile court system. The Department of Welfare and Institutions estimated an additional 135 probation officers would be needed to service twenty-five regional courts covering the State exclusive of its major urban areas. They projected a need for 190 officers for that program or 135 more than the 55 currently employed by our existing regional juvenile courts and local juvenile courts. The annual cost of 190 probation officers paid entirely by the State and at current salaries of $6,500 was projected by the Department to be $1,235,000.

The advantages of sound recruitment now will be felt immediately in the existing courts and be sound advance preparation if the State should within the next several years move towards a State-wide regional or family court system.

(2) Discussion

At least three major areas for further investigation are suggested by this proposal.

(a) Should the Department of Welfare and Institutions have a greater or lesser role in supplying services to the juvenile courts of probation, psychiatric and similar disciplines, or should the courts or a judicial and legally oriented group carry out this function of staffing the courts. Are we in fact, involved in welfare work (which can be characterized as apt below the poverty line) or a special kind of social work.

(b) Should the State finance probation services for all courts entirely or continue to favor only the regional juvenile courts with one hundred percent support for probation staffing.

(c) Should the State expand programs for services beyond probation to other areas involving psychiatric and psychological assistance in a major way.

These questions are very vital in determining the direction our program of juvenile courts should take and the overall costs involved. The recommendation above concerns only the basic and well-recognized need for probation staffing, but the State's inquiry should be extended beyond this phase to meet these questions.

III

Conclusion

We wish to thank the members of the Committee for their time and efforts spent in a thorough examination of these matters, and we also express our appreciation to those individuals who afforded the Committee the benefit of their study and experience in this field.

Respectfully submitted,

Tom Frost, *Chairman*

Charles R. Fenwick, *Vice-Chairman*

C. W. Cleaton

John Warren Cooke

John H. Daniel

J. D. Hagood

Charles K. Hutchens

J. C. Hutcheson

Garnett S. Moore

Lewis A. McMurran, Jr.

Sam E. Pope

Arthur H. Richardson

William F. Stone

Edward E. Willey

Appendix I

Legislation

Bills follow, in order, to cover the legislative proposals contained in Recommendations (A) through (G). Each Recommendation is covered by a separate bill with the exception that the third bill covers both Recommendations (C) and (F).

A BILL to create the Virginia Juvenile Courts Study Commission; to define its powers and duties; and to appropriate funds therefor.

Whereas, the rate and seriousness of juvenile crime and the degree of recidivism among juveniles has focused attention on the role and operation of Virginia's juvenile courts and programs attendant on them; and

Whereas, serious questions have been raised concerning the organization, jurisdiction, ancillary services and finances of the various local and regional juvenile and domestic relations courts within the Commonwealth both directly by studies conducted within the State and indirectly by national studies and federal case law; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. There is hereby created a Commission to consist of fifteen members and be known as the Virginia Juvenile Courts Study Commission. Members shall be appointed by the Governor and include two members from the State judiciary, one representative from the Virginia State Bar, one representative from the Virginia State Bar Association, one representative from the Department of Welfare and Institutions, two representatives from the medical and related professions and the remaining eight members from the public at large not excluding the above-mentioned organizations.

§ 2. The Governor shall designate the Chairman of the Commission. Members of the Commission shall be reimbursed for their expenses incurred in the performance of their duties, but shall be paid no other compensation.

§ 3. The Commission shall conduct a comprehensive study of the State's existing juvenile court program for the purpose of determining the soundest future course for the development of judicial and other machinery for dealing with juvenile and family cases, disputes and problems. It shall direct itself to the following specific problems in addition to such other matters it deems pertinent to its inquiry:

(a) the proper structure for such courts, e.g. a State-established family court system or a system of local choice of court structure;

(b) the proper jurisdiction and status of such courts with respect to questions of divorce, adoption and whether they should be courts of record;

(c) the procedures which should govern such courts in light of developing due process constitutional case law;

(d) the impact of federal programs on these matters; and

(e) the proper services which should support and supplement these courts and the financing, administration and availability of such services.

§ 4. The Commission shall conduct its study to the end that it shall complete its report and submit such report accompanied by appropriate

legislative and budgetary recommendations to the Governor and the General Assembly no later than September one, nineteen hundred sixty-nine.

§ 5. The Commission is authorized to employ consultants and full-time personnel, rent office space and employ secretarial and clerical assistance in the conduct of its work, as needed.

§ 6. The Commission is authorized to enter into agreements with private and federal agencies to assist in the study directed herein and is further authorized to accept and expend gifts, grants and donations from any and all sources and persons.

§ 7. For the expenses of the Commission and its work there is hereby appropriated from the general fund of the State treasury the sum of fifty thousand dollars, and there is further appropriated to it all gifts, grants and donations received for such purpose.

§ 8. All agencies of the State shall assist the Commission in its study.

A BILL to amend and reenact § 16.1-143.1, as amended, of the Code of Virginia, providing for the establishment of regional juvenile and domestic relations courts.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-143.1, as amended, of the Code of Virginia be amended and reenacted as follows:

§ 16.1-143.1. The governing bodies of two or more cities or of two or more counties or of any combination of cities and counties may, with the approval of the judge or judges of the circuit court or courts of said cities and/or counties, establish and operate a regional juvenile and domestic relations court to serve the participating counties and cities; *provided that, on and after the effective date of this act, the cities, counties or combination thereof seeking such approval and establishing such regional court shall constitute a contiguous geographic area which contains a population of not less than sixty thousand, unless it shall be certified to the judge or judges of such circuit court or courts by the Board of Welfare and Institutions that the population requirement of this clause constitutes an unusual restriction in view of geographic considerations, for example surrounding bodies of water or mountain ranges, which may make larger combinations of localities impractical; and provided further that, on and after the effective date of this act, no city or county with a population in excess of sixty thousand shall be eligible to participate in the establishment of any such regional court.*

A BILL to amend and reenact § 16.1-143.3 of the Code of Virginia, relating to the salaries of regional juvenile and domestic relations court personnel.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-143.3 of the Code of Virginia be amended and reenacted as follows:

§ 16.1-143.3. The salaries of the judges and associate judges of a court established under § 16.1-143.1 shall be fixed *annually* by the committee created under § 14.1-40 at an amount not in excess of the amount paid judges of courts of record; and the salaries of the clerk, deputy clerk and other employees of said courts shall be fixed *annually* by the same committee *in accordance with available standards of classification established pursuant to the provisions of Chapter 10 of Title 2.1.* The salaries of such probation officers as may be appointed shall be fixed by the * *Department in accordance with the standards of classification of Chapter 10 of Title 2.1. All such personnel of such court shall be deemed State employees.* Each substitute judge of any such court shall receive for his services per diem compensation equivalent to one twenty-fifth of the monthly salary of the judge of his court in the same manner as such committee pays substitute judges for other courts not of record. All salaries payable under this section shall be paid by the State out of the appropriation for criminal charges.

The cities, counties or combination thereof participating in the establishment of a court under § 16.1-143.1 may, at any time and upon mutual agreement, supplement the salary of any judge or associate judge of such court, and such supplementation shall not affect the salary paid to such judge by the State.

A BILL to amend and reenact § 16.1-143.2 of the Code of Virginia, relating to the style, jurisdiction, hearings, personnel and furnishing of regional juvenile and domestic relations courts.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-143.2 of the Code of Virginia be amended and reenacted as follows:

§ 16.1-143.2. Whenever a regional juvenile and domestic relations court is established it shall be known as (first, second, etc.) regional juvenile and domestic relations court (numerical order being assigned in the order of establishment thereof). Such court shall be known in each county or city it serves as the juvenile and domestic relations court for the (city or county) of (name of city or county), and shall have and exercise *exclusively within such city or county* the same authority, power and jurisdiction as other juvenile and domestic relations courts established under chapter 8 of Title 16.1 of the 1950 Code of Virginia, as amended.

Hearings shall be conducted in the city or county wherein the offense occurs but the judge of the court wherein a matter is heard or is to be heard may enter any order or decree of his court at any place and time. In each participating city or county, a clerk's office shall be kept open during the same hours as clerk's offices for courts not of record are kept open. The clerk or deputy clerk of the juvenile and domestic relations court may be

the same person as the clerk or deputy clerk of any other court in said city or county. The governing body of each participating city or county shall provide such suitable quarters, furniture and utilities, including a telephone, as may be necessary for the operation of said court in said city or county. All other office equipment and supplies, including postage, shall be furnished by the State and shall be paid out of the appropriation for criminal charges.

A BILL to amend the Code of Virginia by adding in Title 14.1 thereof, a section numbered 14.1-42.1, relating to salaries for county court judges.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 14.1 thereof, a section numbered 14.1-42.1, as follows:

§ 14.1-42.1. In the case of any judge of a county court when such county is a participant in the establishment of a regional juvenile and domestic relations court under the provisions of §§ 16.1-143.1 et seq., the committee established under § 14.1-40 shall not consider any reduction in the number of cases before the county court occasioned by the establishment of such regional court as a basis for reducing the salary payable to such judge.

A BILL to amend and reenact § 16.1-157 of the Code of Virginia, providing for appointment of citizens' advisory boards by juvenile and domestic relations courts.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-157 of the Code of Virginia be amended and reenacted as follows:

§ 16.1-157. The judge of any *juvenile and domestic relations or regional juvenile and domestic relations* court * *shall* appoint a board of not more than fifteen citizens of the county or city *or combination thereof within his jurisdiction,* known for their interest in the welfare of children, who shall serve without compensation, to be called the advisory board of the court. *One representative of the local governing body or bodies within such jurisdiction and one representative of the local public health or welfare agency or agencies within such jurisdiction shall be included in the fifteen citizens so appointed.* The members of the board shall hold office during the pleasure of the court or the judge thereof. The duties of the board shall be as follows:

(1) To advise and cooperate with the court upon all matters affecting the workings of this law and other laws relating to children, their care and protection and to domestic relations;

(2) To visit as often as they conveniently can institutions and associations receiving children under this law, and to report to the court from time to time the conditions and surroundings of the children received by or in charge of any such persons, institutions or associations;

(3) To make themselves familiar with the work of the court under this law and make from time to time a report to the public of the work of the court.

Each such advisory board appointed under the provisions of former § 16-177.22 shall continue as the advisory board of the court for which it was appointed.