

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

# **Children in Need of Services**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 65**

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Report of the  
Joint Subcommittee Studying  
Children in Need of Services  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
January, 1989

To: Honorable Gerald L. Baliles, Governor of Virginia  
and  
The General Assembly of Virginia

AUTHORITY FOR THE STUDY

The Joint Subcommittee was created in 1987 by House Joint Resolution No. 247, which authorized a study of methods by which state and local agencies may care for and manage children in need of services (CHINS), including runaway children. The study was to include consideration of the development, implementation, coordination and application of resources for such children. Because of the complexity of the issues presented and the need for additional data on which to base final recommendations, the Joint Subcommittee continued its work in 1988 pursuant to HJR 143, agreed to by the 1988 General Assembly (Attachment A).

BACKGROUND

The Youth Planning Council, serving in an advisory capacity to the Department of Corrections and composed of judges, representatives of the Virginia Council on Juvenile Detention, the Virginia Community Residential Care Association, the Virginia Delinquency Prevention and Youth Development Association, the regional supervisors and other administrative personnel of the Division of Youth Services of the Department of Corrections, met during 1986 to address issues presented by children in need of services who fail to abide by the orders of the juvenile court. The Council's study responded to legislative efforts for several years to devise a solution to this problem. As a result of its study, the Council proposed legislation, enacted during the 1987 Session as HB 1219, which authorizes the detention of nondelinquent children over fourteen years old for violation of court orders. The Council offered a unanimous report supporting the legislation. (When HB 1219 was introduced in 1987, the Department of Corrections took no position on the legislation but had concerns about its detention provisions.) HB 1219, described in detail later in this report, establishes a new category of nondelinquent child--a "child in need of supervision"--who is subject to this sanction (Attachment B).

The Council also recommended a concurrent study of the issues related to disposition of CHINS generally, including lack of service coordination, overlapping services, and a shortage of resources in agencies with responsibility for dealing with CHINS. The Council

identified the problem of CHINS who violate court orders as only one aspect of a larger problem of serving CHINS adequately and meeting the needs of their families and the community. This recommendation was implemented by HJR 247.

HB 1219 was enacted in 1987 to take effect July 1, 1988. The 1988 General Assembly delayed its effective date to July 1, 1989, with the passage of SB 225, to allow the Joint Subcommittee additional time to thoroughly address these issues and agree on recommendations with the continued study.

#### CURRENT LAW REGARDING DISPOSITION OF CHINS CASES

A "child in need of services" is described in § 16.1-228 as a child who is habitually truant, disobedient of his parents, remains away from home, commits an offense which would not be criminal if committed by an adult, or whose safety is threatened because of his behavior or condition.

All matters alleged to be within the jurisdiction of the court must be commenced by the filing of a petition with the court's intake officer. The intake officer may deny a petition if the case can be dealt with more effectively by an agency other than the court. If such alternative measures are ineffective or not recommended, a petition is filed and the court may proceed to dispose of the case. In its disposition, the court is authorized to order the following:

1. Provision of services to the child by other state and local, public or private agencies.
2. Permit the child to remain in his home, subject to certain conditions which must be met by the child and/or his parent.
3. Place the child on probation.
4. Excuse a child fourteen years of age or older from compulsory school attendance and authorize appropriate employment.
5. Transfer legal custody to a relative, to a child welfare agency or facility, or to the local board of social services, which shall determine placement.
6. Require the child's participation in a public service project.

No CHINS who is not also delinquent may be placed in a state correctional facility.

Prior to adjudication of a child's case, the statute provides for taking a child into immediate custody, detention or shelter care in certain situations. A child alleged to be in need of services, however, may only be placed in immediate custody if he is in substantial danger or is likely not to appear before the court as ordered. Also, a child may be taken into immediate custody if he is believed to have run away from a facility in which he has been placed by the court or other agency or if he has run away from home or is in danger because of a lack of adult supervision. If such child is not returned home or released to his parent, he may in certain instances be placed in physically unrestricing shelter care or in secure

detention. Secure detention is authorized for CHINS only until the next day upon which the court sits, and for no longer than a maximum of seventy-two hours.

If a CHINS is found to have violated a court order, the court is limited in the actions it may take to those which the court was authorized to take at the time of its original disposition. Therefore, since the dispositional alternatives available to the court in dealing with CHINS, as set out in § 16.1-279, do not include confinement, this is not an available option.

House Bill 1219, enacted by the 1987 Session, effects certain changes in these procedures for some children currently categorized as children in need of services. HB 1219 was to take effect July 1, 1988, but its effective date was changed to July 1, 1989, by legislation enacted in 1988. The bill redefines "child in need of services" to include only a child whose behavior, conduct or condition results in a serious threat to the child's well-being or physical safety. A new category of child coming under the jurisdiction of the court is then created. A "child in need of supervision" is defined as a child who is habitually truant and for whom reasonable effort has been made to effect school attendance or who runs away from or habitually deserts his family or leaves a residential care facility in which he has been placed by the court. The bill clearly states that no petition regarding a child in need of supervision shall be filed unless all available alternative services have been exhausted.

The court is authorized to order any of the following dispositional alternatives with regard to children in need of supervision:

1. Any disposition authorized for children in need of services.
2. Probation under prescribed conditions.
3. Treatment of the child and/or his parent or subjection of the child and/or his parent to other appropriate conditions.
4. Participation in a public service project.

House Bill 1219 provides additional options for dealing with children in need of supervision who violate court orders. The bill authorizes a fine of up to \$500, suspension of driver's license or secure detention in a juvenile facility for up to ten days for a first violation and up to twenty days for subsequent violations. Such detention must be in a facility separating status offenders from delinquent children.

#### THE CURRENT CHINS SERVICE SYSTEM

CHINS are now served primarily by a system composed of state and local programs of the Department of Corrections, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Social Services, the Department of Education, and the Department of Criminal Justice Services.

The Department of Corrections screens and refers CHINS at the intake level through court service units to other agencies serving CHINS or to the court by petition. If a case is referred to another service agency, the court service unit only follows up to ascertain whether the child kept his initial appointment with that agency. Some court service units have in-house specialized services, such as family counseling or wilderness programs, which serve CHINS. The court service units also provide predispositional services for the court, follow up on the child's compliance with court orders and provide probation services.

The Department of Corrections Division of Youth Services serves CHINS and delinquents by funding offices on youth in forty-four localities, predispositional and post-dispositional group homes, intensive in-home supervision, and family group homes.

The Department of Mental Health, Mental Retardation and Substance Abuse Services (MHMRAS) serves CHINS when they are referred to state and local mental health programs by local prescription teams, by the court service unit or by the Department of Social Services for care and treatment for emotional problems, substance abuse or mental retardation. Residential treatment is provided in state-operated psychiatric facilities and residential programs established through community services boards which also provide outpatient counseling and other nonresidential services.

The Department of Social Services provides services to CHINS most frequently through its foster care program. The Department works with CHINS and their families to avoid out-of-home placement by providing permanency planning, supportive casework, individual and family counseling, referral services and financial assistance. The Department develops a permanent placement plan for CHINS who must be removed from their homes and placed in the custody of the local welfare agency and provides foster care services, residential placement and independent living services to such youth. As of June, 1988, CHINS comprised approximately 12% (771) of the state's foster care caseload.

The Department of Social Services has developed a work plan to evaluate the effectiveness of current services and determine barriers to services. Problems with interagency coordination were cited; most often requested and not provided were services from the Departments of Corrections and Rehabilitative Services. The Department is responding to this finding by establishing a consortium of state agencies to provide technical assistance, advocate for needed services, coordinate services among agencies, educate the public, develop a twenty-four hour service delivery model, and implement an assessment/treatment model for older teens in Department custody. The Department will also sponsor a statewide interagency conference on services to older youth in foster care in December, 1988.

The Department of Education provides services to CHINS who are chronically truant or who require special education. Standards of Quality and revised accreditation standards require the availability

of pupil personnel professionals, who are school social workers and counselors who provide services to students and their families with special needs. Guidance counselors are required in elementary schools beginning in the 1988-89 school year; this service should allow earlier identification of children with emotional problems. The joint subcommittee has found, however, that the educational system's services to truants are not provided uniformly across the state or even within each school division and are not based on a clearly articulated statewide policy regarding truancy. The Department noted also that the law may not be clear as to the local school boards' responsibility for the education of children in nonsecure detention and group homes. Funding methods contribute to lack of coordination at the local level for these children.

The Departments of Social Services, Corrections, Education, and MHMRSAS have jointly created the Interagency Funds Pool for Seriously Emotionally Disturbed Children and Adolescents to serve these children whose needs cannot be met through existing legal mandates and resources. The participating agencies provided \$400,000 for the 87-88 fiscal year. The General Assembly provided \$650,000 to the Department of Social Services and the Department of Corrections for FY 88-89 for the pool in response to the success of the program in its first year of operation. Localities may use these funds to develop or purchase needed services for seriously emotionally disturbed children for whom specific interagency plans have been developed. The pool is to provide incentives for agencies to work together and to encourage local agencies to provide services creatively to keep children in their communities when possible. The funds are administered by a State Consortium for Child Mental Health, which reviews applications, awards funds, and evaluates the effectiveness of expenditures from the funds pool. The consortium signed a memorandum of agreement in June, 1988, to continue and expand its activities.

The consortium in 1989 plans to expand its duties by awarding grants to communities to develop "Local Interagency Service Projects" to demonstrate to localities the effectiveness of the interagency effort. Funds from the Department of MHMRSAS (\$450,000) and Department of Social Services (\$62,500) in FY 89 will fund localities' efforts to develop interagency services for very disturbed youth in their home communities. The services must be managed across agencies and the target group must have priority access to all new and existing services. The program will be piloted in six localities in 1989. The consortium will encourage training of local agency heads on the mission of sister agencies and will explore legislative changes which will encourage interagency coordination.

The Department of Criminal Justice Services is a planning, research and evaluative agency that receives federal funds for juvenile and adult corrections. The Department administers the Juvenile Justice and Delinquency Prevention Act funds, about 20% of which are spent on status offenders, much of it to comply with federal mandates to remove status offenders from secure facilities. The Department performs general research, policy and planning

functions for criminal justice programs. In this capacity, it collects data from existing information systems, consisting of four data bases, all transaction-based in compliance with statutory restrictions against use of juveniles' names. The Department explains that these systems must be offender-based tracking systems before they are effective for analyzing the system.

While not providing direct services to children, the Department for Children is responsible to promote and advocate the best interests of children and to plan and coordinate children's services in the Commonwealth. To perform these functions, the Department is authorized to provide information to the public on resources, including existing state and local programs, available to serve youth. The Department is also directed to provide technical assistance to support the initiation or improvement of programs for youth, to recommend appropriate legislative changes to the Governor and General Assembly, to monitor federal legislation, and to monitor the effectiveness of state programs for youth. Among the Department's most important tasks is its responsibility to plan and coordinate children's services by facilitating exchange of information through planning, monitoring, budget review, and legislative tracking. In order to meet this responsibility, the Department is statutorily authorized to participate in the budget development of agencies serving children.

#### ACTIVITIES OF THE JOINT SUBCOMMITTEE

The Joint Subcommittee began its study in 1987 by reviewing the findings and recommendations of the Youth Planning Council regarding CHINS.

The Joint Subcommittee received testimony and materials from the state agencies participating in the CHINS service system. These included the Department of Corrections; the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Department of Social Services; the Department of Education; and the Department of Criminal Justice Services. These agencies described their programs for this population and discussed issues related to CHINS. The Department for Children also reviewed significant changes in approaches to CHINS in other states.

Testimony was provided to the Joint Subcommittee from various advocacy organizations. These included the Virginia Council on Juvenile Detention, representing detention home personnel; the Virginia Community Residential Care Association, consisting of group homes affiliated with the Department of Corrections; the League of Women Voters; and the Virginia Delinquency Prevention and Youth Development Association, composed of board members and staff of the thirty-two offices on youth in the Commonwealth.

The Joint Subcommittee received the report of the Forum on Juvenile Justice, cosponsored by Virginia CARES, Total Action Against Poverty, and the Roanoke City school system.



In the first year of its study, the joint subcommittee identified a lack of empirical data which accurately characterized the CHINS population with regard to the behaviors represented, how cases are handled from jurisdiction to jurisdiction, who is at risk of more serious offenses, and how effectively the system is operating now. Therefore, as the study continued in 1988, the joint subcommittee, with the assistance of the Department of Criminal Justice Services, surveyed court service units, detention homes, and education, mental health, and social service agencies in seven representative localities around the Commonwealth to collect data to provide a better aggregate picture of the children in need of services in the Commonwealth and the system now attempting to serve them.

The Western Virginia Coalition on Youth Services, an association of youth service providers in southwest Virginia, provided the joint subcommittee with data on the CHINS population and recommendations with regard to services and funding for programs for this population. The coalition worked at length surveying service providers in the jurisdictions within its geographic area to collect data to describe the CHINS population and to analyze current financing mechanisms and programs and suggest needed changes in these areas. The coalition also brought key participants in CHINS programs and program reviews in other states with model programs, specifically Massachusetts, North Carolina and West Virginia. The joint subcommittee is indebted to the coalition for its efforts in helping to define the problems before it and in formulating recommendations for change.

Before formulating its recommendations, the joint subcommittee received final comments and recommendations from the involved state agencies on the specific issues of interagency coordination and the minimum level of services required to serve CHINS.

In recognition of the common issues involved with regard to truancy and other educational problems in the CHINS population, the joint subcommittee coordinated its efforts with the Joint Subcommittee Studying School Dropouts, authorized in 1988 by HJR 124 and chaired by Delegate Franklin P. Hall.

## FINDINGS AND RECOMMENDATIONS

### DATA COLLECTION

The joint subcommittee determined that decisions regarding services and funding for CHINS needed to be based on empirical data demonstrating characteristics of the CHINS population, the services now being provided to CHINS, and the cost of and funding sources for those services. Because this data proved difficult to extract from statewide figures, the joint subcommittee, with the assistance of the Department of Criminal Justice Services, surveyed court service units, detention homes, departments of social services, community services boards and school systems in seven representative localities, including Manassas, Spotsylvania County, Chesterfield

County, Charlotte, Norfolk, Alexandria, and Roanoke. The survey provides an analysis of the children served in the system and of the service system itself. Thirty-three of forty-two surveys mailed out were returned; school divisions are not represented significantly. The data represents responses based on a population of 607 chronic CHINS, defined for the survey as "children who habitually (ii) are truant, run away from adults or other authorities who are responsible for them, or are incorrigible, i.e., disobey the reasonable commands of adults responsible for them and (ii) who continue to display these behaviors despite court intervention." It should be noted that the survey only includes data on children currently in the system as CHINS, and the numbers are estimates because agencies other than the court services unit do not classify these children as "CHINS."

The survey results showed that chronic CHINS are likely to share the following characteristics:

- From single-parent families or blended families, i.e., those that include step-parent or boyfriend or girlfriend of parent
- From families characterized by parental substance abuse
- Have alleged or founded physical or sexual abuse in background
- Have low self-esteem
- Have alcohol and/or drug involvement
- Are learning disabled

The survey more specifically analyzed chronic CHINS by attempting to characterize them as incorrigibles, truants or runaways. This analysis indicated possible trends in each group as follows:

Incorrigibles:

- Largest subgroup of chronic CHINS
- Predominantly younger male population (12-14 years old)
- Characterized by high incidence of low family income, parental and client substance/alcohol abuse, and low self-esteem

Truants:

- Predominantly older female population (15-17 years old)
- Many have history of alleged or founded physical abuse
- Disproportionate incidence of parental substance abuse across all categories
- Older female truant has highest incidence of learning disability and low self-esteem
- No correlation between income and truant behavior

Runaways:

- Smallest subgroup of chronic CHINS
- Predominantly younger boys (12-14) and older females (15-17)
- Younger males are running from single parent and blended families

- Younger males are more likely to run to the streets, as opposed to an acquaintance or to a shelter, than are females or older youth; these are most at-risk runaways.
- More older females run to an acquaintance rather than to the street or to a shelter
- Younger males evidence highest relationship between low self-esteem and poor school performance as compared to females or older youth
- Of all three categories of chronic CHINS, incidence of foster care placement is significant only with chronic runaways
- More runaways are emotionally disturbed than are truants or incorrigibles

The data suggests that a child's dysfunction is closely tied to his acting-out behavior, i.e., in significant numbers, truants are learning disabled, runaways are emotionally disturbed youth in foster homes and are victims of abuse, and incorrigible youth have substance-abusing parents.

The survey also provided a picture of the CHINS service system, identifying practices and problems of the participating agencies. Data indicated the following:

- The Department of Corrections is working with most CHINS, but other agencies may be working with children with the same characteristics who are not labeled "CHINS," a statutory term of art. Departments of social services are working with a significant number, with over half of children who come into foster care being CHINS.
- Service agencies responding most often specified counseling services as most needed, yet community services boards are not providing a proportionately high volume of services and have waiting lists.
- Schools have no consistent policy for intervention with truants.
- There is an absence of a team approach in most localities, with schools most notably absent.
- Only the Department of Corrections labels services as provided specifically to "CHINS"; therefore, other agencies cannot track funds spent to serve this population.
- The most frequently cited barriers to CHINS' service improvement were staff shortages, funding restrictions, and lack of a designated lead agency.

The joint subcommittee considered this data in conjunction with anecdotal information provided to it and found it to be consistent with other testimony and findings regarding characteristics of this group. Such anecdotal data indicated that CHINS families lack parenting skills, are abusive, poorly educated, have a low to average

income level, many working two jobs, and are single-parent or blended families. The children themselves were described in anecdotal data as defiant, rebellious, impulsive, seeking instant gratification, having difficulty assuming responsibility, having low self-esteem, poor social skills and learning problems, and being developmentally delayed, hyperactive and bored.

Survey results supplemented preliminary data provided by the Department of Criminal Justice Services, using its information systems. The data shows the incidence of CHINS to be about 9% of cases in the system. Compared to all juvenile offenders, CHINS tend to be younger, are more likely to be diverted at intake, are white and female, and are less likely to recidivate. About 39% of CHINS are charged with incorrigibility offenses, 33% are in-state runaways, 5% are runaways from other states, and 22% are truants.

Data may be further affected if there are "masked CHINS," or children who demonstrate CHINS behavior but who are processed as delinquents. A data review by the Youth Planning Council specified ten delinquent charges that participating court services units identified as charges likely to be placed against "masked CHINS". They interpreted the data collected to indicate the possibility that some localities were using these delinquent charges frequently in order to bring within the court's jurisdiction children who are actually CHINS in order to have access to services for these youth.

Legislative action in 1988 may provide improvements in data collection on children coming under the juvenile court's jurisdiction. In 1988, the Joint Subcommittee Studying the Creation of a Clearinghouse for Juvenile "Criminal" Records recommended that the Virginia Juvenile Justice Information System (VAJJIS) be modified and expanded to include a tracking mechanism for identifiable juvenile cases. This recommendation related specifically to cases involving delinquency, but the Joint Subcommittee recommended that the Department of Corrections adopt regulations to require identifiable data in other cases, such as CHINS. This recommendation was implemented with the passage of HB 405 by the 1988 General Assembly. The Department of Corrections has begun implementation of these recommendations with the Department of Information Technology, developing the VAJJIS II system to make the program more useful for the local, regional and central offices.

#### Recommendation

To provide data for ongoing decision-making regarding CHINS, a data collection system is needed for retrieval of information on specific client population characteristics and on funds usage. The joint subcommittee recommends that service agencies be directed to identify status offenders uniformly and specifically with a clear common definition, to allow collection of data and to track funds used on services to status offenders.

## HOUSE BILL 1219

This legislation, enacted in 1987 with its effective date delayed until July 1, 1989, has served as a focal point for discussion. The bill's provisions raise and address a number of issues affecting policy and practice with regard to serving CHINS.

House Bill 1219 redefines "child in need of services" to include only a child whose behavior, conduct or condition results in a serious threat to the child's well-being or physical safety. A new category of child coming under the jurisdiction of the court is then created, for whom additional dispositional alternatives are available to the court. A "child in need of supervision" is defined as a child who is habitually truant and for whom reasonable effort has been made to effect school attendance or who runs away from or habitually deserts his family or leaves a residential care facility in which he has been placed by the court. The bill clearly states that no petition regarding a child in need of supervision shall be filed unless all available alternative services have been exhausted.

House Bill 1219 provides additional options for dealing with children in need of supervision who violate court orders. The bill authorizes a fine of up to \$500, suspension of driver's license or secure detention in a juvenile facility for up to ten days for a first violation and up to twenty days for subsequent violations. Such detention must be in a facility separating status offenders from delinquent children.

House Bill 1219 attempts to provide the courts with additional control over CHINS. Currently, the court is authorized to order services but has limited control over CHINS who refuse to comply with court orders or who are openly defiant in the courtroom. The law is unclear as to whether the court has summary contempt authority over status offenders, and, if so, whether punishment for contempt can rise higher than the punishment for the original offense. The court is authorized to punish summarily for contempt for actions specified in § 18.2-456, which involve misbehavior in or near the courtroom. Limitations on power to detain CHINS are set forth in § 16.1-292, but only for violation of a court order, not for violations of § 18.2-456. Section 16.1-248.1 specifies criteria for authorizing detention for CHINS, but does not specifically authorize detention in these cases. Judges are generally interpreting these provisions to preclude their authority to order detention for such acts of contempt.

The court's lack of enforcement authority has led to inconsistent services around the state as some courts discourage taking CHINS petitions because of insufficient resources and authority to deal with them; other courts control CHINS by invoking delinquency provisions when possible over children who come under the jurisdiction of the court because of a status offense. Still other courts have responded by becoming "brokers," stimulating and ordering public agencies to provide services to families.

The authority to detain for violation of court orders is controversial. Some believe that there is a significant correlation between chronic CHINS behavior and later delinquent behavior; not intervening with effective measures puts these children at risk of more serious consequences. Others disagree with the application of this sanction to children who have not clearly endangered themselves or others, citing the lack of data to support the assumption that these children are predelinquent. Other states' data was cited as indicating that only about 20% of runaways later commit a delinquent act.

As part of the survey conducted by the joint subcommittee, seven detention homes were questioned about detention practices and preferences regarding separation of status offenders and delinquents. Three of the homes surveyed housed a total of fifty-four alleged CHINS for an average of 1.8 to 3.18 days. Two held adjudicated CHINS, all out-of-state runaways. Per diem rates per child were estimated at from \$34 to \$121, paid by the locality and the state. Two of the homes suggested that separation of CHINS from delinquents was unnecessary, noting they commingle in the community. One home recommended separation to prevent inappropriate influences of delinquents on nondelinquent youth. Three stated that CHINS should not be held in detention homes at all because they are victims of family dysfunction and have committed no criminal offense.

The joint subcommittee's survey included inquiry of local service providers regarding the likelihood that detention would deter CHINS behavior. The court services units estimated that 98% of cases could be remedied through family intervention; the remaining 2% would benefit if services are provided in detention. Departments of social services responded that detention would deter behavior in 50% of cases primarily through providing respite to family and professionals. Community services boards estimated that 25-50% of cases would be deterred through empowering the court to order detention, but there was concern that detention would allow parents to escape their responsibilities. Schools responded that detention would probably not deter behavior but would beneficially empower the court.

HB 1219 mitigates the punitive aspect of detention by requiring that all available services must be provided to a child before he is subject to detention for violation of court orders. Children, therefore, who exhibit clearly chronic behavior and for whom there are no service options remaining are those to whom the detention authority was intended to apply--not children running from abusive homes. It has been questioned, however, whether the requirement that all service options be exhausted prior to acceptance of a petition is meaningful given the uneven distribution of services around the state and inadequacy of services in many areas. The provision may have meaning only if a specified minimum level of services is available and provided to each child.

## Recommendations

In response to comments received during the study, the joint subcommittee recommends the following amendments to HB 1219. Legislation implementing these recommendations is contained in Attachment C to this report.

1. Modify detention authority to render detention a therapeutic rather than a purely punitive measure and one which will be authorized only when necessary to meet a child's service needs. This should be accomplished by requiring the court at the time of disposition when a child is found to be in need of supervision to order an evaluation of the child's service needs by an interdisciplinary team, which shall report its findings to the court before final disposition. When any such child subsequently willfully and materially violates a court order, the court then shall consider placement in a foster home, group home or other nonsecure out-of-home facility prior to ordering detention placement. The court may place the child in a detention home only when it affirmatively finds, after receiving evidence, that all such out-of-home placement alternatives and all other treatment options in the community have been exhausted and that detention is necessary to meet the child's service needs. When any such child is detained, the court shall direct the interdisciplinary team which evaluated the child at the time of disposition to reevaluate him and update the treatment plan.
2. Eliminate the ten-day and twenty-day limitations on length of detention, authorizing a maximum detention period of thirty days for a violation of a court order arising out of the same petition. This change will provide the court with additional discretion in use of what will be a more therapeutic and less punitive detention period.
3. Eliminate the requirement that children in need of supervision who are detained be separated from children detained for delinquent offenses. Such separation is not physically possible in many detention homes and these populations commingle in the general population.
4. Eliminate the punitive dispositional option of imposition of a fine of up to \$500 upon a child in need of services or supervision for violation of a court order.
5. Clarify that an order issued with respect to a child in need of supervision who has violated a court order is a final order and appealable as provided by law.
6. Clarify the court's summary contempt authority with regard to status offenders to provide authority to detain for violation of § 18.2-456.

## SERVICES

The joint subcommittee has identified pervasive problems in service availability and in coordination of service delivery among state, local, public, and private agencies. There are no service-delivery systems created especially to address the problems of CHINS.

Rural areas have the most serious service program shortages. The Department of Corrections notes that approximately 60% of the Division of Youth Services' programs, with the exception of court service units and offices on youth, are clustered around the urban areas of Northern Virginia, Tidewater, Richmond and Roanoke. Another 20% are located around Charlottesville, Lynchburg and Martinsville. This reportedly results not only from denser population in these areas, but also from present funding mechanisms' dependence upon the willingness and ability of the local governing body to participate in the development and operation of programs.

According to the report of the Department of Social Services' Task Force on the Status of Older Children in Foster Care, figures in May, 1986, indicated that older children who are CHINS or delinquents needed resources almost twice as often as other children in their age group. Services most needed were local foster homes, emergency placement facilities, group homes for aggressive children, local detention or secure shelters, runaway homes, secure placements for assaultive children, family counseling services, educational programming and drop-in programs for street children.

Testimony has indicated that a successful CHINS service system requires the coordination of community agencies, including schools, departments of social services, mental health agencies, and court service units, to develop a continuum of services. Successful CHINS programs have been described as those which incorporate a long-term nonpunitive approach, are community-based with interagency coordination, are realistic about family reunification and employ well-paid professional staff.

The State Consortium for Child Mental Health, described above, serves as an existing model for an interagency approach. When a youth is identified by an agency as needing services, that agency determines whether it alone can meet the child's needs. If not, and the youth meets certain criteria regarding seriousness of the problems, prior attempts at remediation and need for services by more than one agency, the child is referred to a multi-agency team for assessment, planning and follow-through. Each child receives a case manager who ensures assessment of needs, oversees team planning, and sees that services are provided and changed as needed.

Community services boards are now responsible by statute for coordinating interagency prescription teams to provide mental health, mental retardation and substance abuse services and forming interagency agreements regarding its clients, but these efforts have not been entirely successful, in part because of a reported lack of enforcement power over other agencies.



## Recommendations

1. The joint subcommittee recommends that the appropriate agencies take the following action to improve interagency coordination:

- Develop a clear definition of CHINS or status offenders to provide for uniformity and to facilitate interagency communication. The definition should be applied and the child characterized as "CHINS," when appropriate, at the time the court makes a referral to a provider agency or when services are provided by an agency.
- Local offices on youth or Department of Corrections regional offices form interagency committees within each locality or region to meet regularly to develop a coordinated service delivery system.
- Create local multi-disciplinary prescription teams to provide local case planning and monitoring.
- Expand use of interagency funding efforts such as the Interagency Funds Pool for Seriously Emotionally Disturbed Children and Adolescents; agree on target population, which should have priority access to existing services.
- Train service providers in areas where interagency coordination is deficient, using models and staff from successful local programs.
- Provide financial incentives to localities to use an interagency approach, e.g., allowing flexibility in use of funds or tying funds to an interagency planning process.
- Reconsider effectiveness of § 16.1-278, which authorizes the court to require the cooperation and assistance of certain state and local agencies and officials in serving children and their families. The statute does not appear to be effecting cooperation among agencies as intended.
- The joint subcommittee endorses current efforts to provide statewide uniform policies and services to youth by separation of the Division of Youth Services from the Department of Corrections and establishment of a separate agency to perform its functions. This will ensure that adequate attention is given to services and funding for youth and will provide a means to address problems requiring state-level intervention, such as policy clarification, funding restrictions and organizational barriers.
- Establish a legislative commission on youth services to provide a forum for study and formulation of recommendations to the Governor and the General Assembly addressing the needs of and services to the Commonwealth's youth and their families (Attachment D).

2. The joint subcommittee recommends that the appropriate agencies undertake the following tasks to expand and improve services to this population:

- With coordination provided by the Department of Corrections, human services agencies conduct ongoing needs assessments for CHINS.
- The Secretaries of Human Resources, of Transportation and Public Safety and of Education address inconsistencies in service provision among the localities by developing recommendations for a minimum level of services which should be available in each locality and a plan for funding such services (Attachment E). The study should include consideration of the following services, identified during the joint subcommittee's study as needed statewide:

- Assessment services leading to treatment plans
- Outpatient and day treatment services
- Home-based outreach services
- Emergency and longer-term foster homes
- Group homes
- Secure shelters
- Program-secure residential facilities
- Secure settings for assaultive youth
- Independent living services
- Diversion programs at court intake
- Short-term out-of-home crisis placement
- Expanded information and referral services
- Expanded early diagnostic screening services
- Better training for community professionals
- Additional offices on youth
- Mediation
- Training in parenting skills, life skills and self-help skills for parents and children
- Substance abuse services
- Vocational education
- Special education
- Alternative education
- In-home prevention programs providing counseling, home management, and referral services
- Basic health services
- Staff development and training

- The Secretary of Education promulgate specific policies to address and prevent truancy and youth dropping out of school. Such policy development should include consideration of such efforts as early identification of at-risk youth and application of in-school resources, including school-home counseling, family involvement, in-school counseling, special education and/or alternative education, instructional and classroom modifications, teacher consultation, administrative and behavior management, and health services. When in-school

management is inadequate, use of a multi-disciplinary team should be considered to assess and provide treatment based on an individualized plan (Attachment F).

- Services should be provided as close to the home community as possible.
- Services should focus on families by provision of such services as intensive in-home services, parent education and respite care. Require family mediation before law enforcement or court intervention if there is no evidence of abuse or neglect.
- The Department of Corrections consider the development of appropriate pilot programs which are alternatives to detention homes for youth who require a secure placement setting and residential services.
- Restructure court-appointed attorney program, with attention to quality control and adequate remuneration.
- The Department of Corrections should consider innovative service delivery models in the court service units and development of pilot programs based on these models. One model suggested includes use of a separate unit of graduate-level family counselors and outreach workers. When a CHINS case comes to the intake officers' attention, a petition is filed to formalize the process and the court issues an order for the family and child to complete the program. The program is a series of progressively aggressive treatment services depending on the responsiveness of the parents and child. The family is assigned an outreach worker who is the primary caseworker in the case. The family engages in counseling, parent support group, parent education seminars, and adolescent support groups depending on the level of treatment services needed. If the family does not respond or cooperate, then the outreach worker will provide additional intensified home-based services in the school and home. If this intervention fails, then short-term residential placements with counseling will be employed. After further failures, long-term residential treatment is provided for the child, with independent living training as the final step in the process.

#### FUNDING

Problems have reportedly been caused by programmatic budgeting, which necessitates categorization of children according to where funding is available. Current funding systems are restrictive in eligibility criteria and unintentionally support a fragmented service system in which comprehensive needs of children and their families are not met.

Present funding mechanisms require financial participation of local governing bodies, resulting in uneven distribution of services, with higher concentration around wealthier urban areas.

Ineffective services can be expensive. Massachusetts found that a chronic CHINS cost the state \$24,400 in social work services, shelter and placement costs. A conservative estimate, excluding any psychiatric treatment costs, indicates that Massachusetts is paying \$7-8 million yearly on stop-gap measures.

The joint subcommittee in its survey attempted to identify funds now being used to serve CHINS. Because only the Department of Corrections identifies CHINS as a specific service population, it was difficult to track funds used by other agencies. It was noted, however, that, in the sample, CHINS used one third of "286" funds spent. Local and state expenditures for detention are high, with total per diem costs in some localities set at \$100 to \$150. The Department of Corrections spent \$ 701,697 for out-of-home placements.

#### Recommendation

The joint subcommittee has reviewed existing funds available for this population. These include funds authorized by § 16.1-286 for placement outside the community, appropriations to the Department of Corrections for local juvenile correctional facilities or programs pursuant to § 16.1-322.2, funds provided for maintenance of children placed by the Department in private homes or facilities pursuant to § 53.1-239, funding authorized by § 16.1-313 for community-based residential care, Title XX funds available to the Department of Social Services, community services board local budgets, and discretionary high-risk funds provided to the Department of Education. The joint subcommittee agrees that, at this time, it is inappropriate to divert these funds to provide increased funding for status offenders. The joint subcommittee endorses the interdisciplinary concept implemented with the Interagency Funds Pool for Seriously Emotionally Disturbed Children and Adolescents, but the future of the funds pool appears uncertain at this time. The joint subcommittee agrees that a source of new funding is required to provide needed services and to fund the interdisciplinary teams whose review of children in need of supervision it recommends and that its recommendations will have a long-term fiscal impact which is difficult to quantify at this time. The joint subcommittee therefore recommends that the Secretaries of Transportation and Public Safety, of Health and Human Resources and of Education, in their development of a plan for providing and funding a minimum level of community services for at-risk youth, consider and address the long-term fiscal impact of the recommendations offered by the joint subcommittee (see Attachment E).

Respectfully submitted,

John G. Dicks, III, Chairman  
Glenn R. Croshaw  
V. Thomas Forehand, Jr.  
Jerrauld C. Jones  
Dudley J. Emick, Jr. \*  
Joseph V. Gartlan, Jr. \*  
Benjamin J. Lambert, III  
Harry L. Greene  
Honorable E. Preston Grissom  
Rev. William E. Christian

\* See attached comments.

## Comments

Senators Emick and Gartlan, respectively, submit the following comments to the report:

Senator Dudley J. Emick, Jr.:

Cosmetic legislative changes have been the norm during the past 16 years in the General Assembly. The 1977 changes which included the beginnings of Children in Need of Services (CHINS) and every change since that time posed by the last four administrations, including the creation of the new department have been grossly underfunded. The outlook, then, is for another decade of high blown rhetoric, minimum funding, and catchy statutory phrasing such as "abuse and lose," CHINS and CHINS II, a Child in Need of Supervision. Lastly, strong executive leadership is needed to recognize that very little coordination exists between the Division of Children, Council on Childcare and Early Childhood Development, the new Department of Youth Services, the public schools, the Department of Corrections and the Department of Mental Health.

Senator Joseph V. Gartlan, Jr.:

I believe the Joint Subcommittee should have made recommendations for the provision of appropriate funding to implement the initiatives it called for.

# GENERAL ASSEMBLY OF VIRGINIA -- 1988 SESSION

## HOUSE JOINT RESOLUTION NO. 143

*Continuing the Joint Subcommittee Studying Children in Need of Services.*

Agreed to by the House of Delegates, February 16, 1988

Agreed to by the Senate, February 25, 1988

WHEREAS, the Joint Subcommittee Studying Children in Need of Services (CHINS) was created in 1987 to examine methods by which state and local agencies care for and manage CHINS and to consider development, implementation, coordination and application of resources for CHINS; and

WHEREAS, the joint subcommittee met in 1987, receiving testimony from the state agencies participating in the CHINS service system and from various state and local youth advocacy organizations; and

WHEREAS, the joint subcommittee recognized that serving CHINS adequately requires sound information, not currently available, and decisions regarding the number of CHINS and the offenses they have committed, the likelihood they will become delinquents or criminal adults, services currently available, services needed and where they are needed, services most effective in treating CHINS as shown by experience nationally, and the costs of current and proposed programs; and

WHEREAS, the information needed to address these issues must be based on reliable data which cannot be collected by use of the current transaction-based tracking system; and

WHEREAS, the use of secure detention has been endorsed as a tool for ensuring the compliance of CHINS with court orders, but much disagreement remains among professionals and advocates as to the use of detention for these children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying CHINS is hereby continued. The joint subcommittee shall include in its deliberations consideration of the following options:

1. Collection of empirical data on the current volume of CHINS cases, types of cases, how they are handled from jurisdiction to jurisdiction, and who is at risk of committing more serious offenses; data may include statewide data as well as data from in-depth studies of several courts' case files.

2. Examination of the feasibility of changing from the current transaction-based tracking system to an offender-based tracking system to facilitate data collection and analysis.

3. More carefully defining categories of CHINS in the statute and more clearly separating chronic offenders from other CHINS.

4. Examining ongoing activities, such as the Interagency Funds Pool for Seriously Emotionally Disturbed Children and Adolescents for expansion or future application.

5. Examination of other states' activities, especially New Jersey, Washington, Tennessee, Florida, Massachusetts, and Missouri, for possible application in Virginia.

6. Assessment of the level of services available statewide.

7. Coordination of community organizations, including schools, departments of social services, departments of mental health, and court service units, to develop a continuum of services, ensuring that each locality has, at a minimum, diagnostic, family counseling, shelter and mental health services.

8. Establishment of "standards of quality" for services to ensure that each community has adequate services and to give meaning to the requirement that all nonjudicial remedies be exhausted before punitive measures are taken.

9. Pilot a "semi-secure" facility for children twelve to eighteen years of age who do not respond to community intervention.

10. Examination of current spending on CHINS and redirection of existing funds to new programs for them.

11. Examination of the cost of putting CHINS in secure detention pursuant to HB 1219 (1987); and, be it

RESOLVED FURTHER, That the membership of the joint subcommittee will remain the same except for the addition of one member-at-large. Any vacancy shall be filled in the same manner as the original appointment. The joint subcommittee shall complete its study and submit its recommendations to the 1989 Session of the General Assembly.

The indirect costs of the study are estimated to be \$10,650; the direct costs of the study shall not exceed \$7,200.

## HOUSE JOINT RESOLUTION NO. 247

*Requesting a joint subcommittee to study the care and management of children in need of services (CHINS) and the problem of runaway children.*

Agreed to by the House of Delegates, February 8, 1987

Agreed to by the Senate, February 19, 1987

WHEREAS, children in need of services (CHINS) continue to present difficulties to those state and local agencies charged with addressing their needs; and

WHEREAS, there is often a lack of coordination in the provision of services and programs to children in need of services and their families; and

WHEREAS, programs and services designed to address children in need of services and their families are not equally available throughout localities in the Commonwealth; and

WHEREAS, as a last resort an increasing number of children in need of services are being brought before the court for action often beyond the capability of the court to provide; and

WHEREAS, there exists a pronounced need to develop a coordinated and unified network among those agencies involved in the care and management of children in need of services and their families; and

WHEREAS, there is a need to develop innovative approaches and identify adequate resources with which to address the problems of children in need of services, their families and their communities; and

WHEREAS, there were 965 children who were missing from their homes in Virginia on January 1, 1987, and were reported as missing to the Missing Children Information Clearinghouse; and

WHEREAS, 960 or approximately 99.5 percent of these missing children were presumed to be runaways; and

WHEREAS, runaway shelters and other youth service providers frequently encounter runaways who have not been reported as missing, making it impossible to accurately determine the exact number of runaways in Virginia at any given time; and

WHEREAS, although there is a tendency to view runaways as free to return to a caring and supportive home whenever they choose, many are attempting to escape physical, sexual, or emotional abuse or other problems which have become intolerable due to their lack of adequate coping skills; and

WHEREAS, the Code of Virginia authorizes law-enforcement officers to take runaways into immediate custody, but many law-enforcement officers have expressed confusion as to their responsibilities and alternatives for dealing with runaways who refuse to go home; and

WHEREAS, a lack of clear responsibility and authority for providing services to runaways results in services being provided in a fragmented manner by a variety of agencies; and

WHEREAS, the lack of runaway shelters in most Virginia communities means that services are often available only from agencies which accept only those children referred by the juvenile and domestic relations courts or the local Department of Social Services, rendering children who have not been identified as delinquent, abused or neglected ineligible for services; and

WHEREAS, there is a need to identify appropriate methods and funding for providing needed services to runaways and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be requested to study state and local agency approaches to the care and management of children in need of services and the problem of runaway children. The subcommittee shall consider the issue of children in need of services and children in need of supervision in all of its aspects as they relate to the development, implementation, coordination and application of resources of services and programs.

The joint subcommittee shall determine the kind of services that may be needed, recommended and appropriate structure for the administration of programs and services for runaways, and the funding necessary for such programs.

The joint subcommittee shall be composed of nine members: one member each from the House Courts of Justice Committee, the House Education Committee, the House Health, Welfare and Institutions Committee, to be appointed by the Speaker of the House; one member each from the Senate Courts of Justice Committee, the Senate Rehabilitation and Social Services Committee and the Senate Education and Health Committee and to be appointed by the Senate Committee on Privileges and Election; and three citizen members to be appointed by the Governor.

The agencies of the Commonwealth shall provide assistance upon request as the joint subcommittee may deem appropriate.

The joint subcommittee shall make any recommendations it deems appropriate to the 1988 Session of the General Assembly.

The indirect cost of this study is estimated to be \$10,650; the direct cost shall not exceed \$5,040.



## 1987 SESSION

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER 632

*An Act to amend and reenact §§ 16.1-228, 16.1-241, 16.1-248.1, 16.1-260, 16.1-264, 16.1-266, 16.1-279, 16.1-292 and 46.1-357 of the Code of Virginia, relating to children in need of supervision; penalties.*

[H 1219]

Approved MAR 28 1987

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-241, 16.1-248.1, 16.1-260, 16.1-264, 16.1-266, 16.1-279, 16.1-292 and 46.1-357 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.—When used in this chapter, unless the context otherwise requires:

“Abused or neglected child” means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

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

“Adult” means a person eighteen years of age or older.

“Child,” “juvenile” or “minor” means a person less than eighteen years of age.

“Child welfare agency” means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.

“Child in need of services” means :

1. A child who while subject to compulsory school attendance is habitually and without justification absent from school; or
2. A child who is habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, legal custodian or other person standing in loco parentis; or
3. A child who remains away from or habitually deserts or abandons his or her family; or
4. A child who commits an offense which would not be criminal if committed by an adult; or
5. a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services , nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone .

However, to find that a child falls within any of classes 1, 2, 3 or 5 above these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his or her family must be is in need of treatment, rehabilitation or services not presently being received , and (iii) the intervention of the court must be is essential to provide the treatment, rehabilitation or services needed by the child or his or her family.

“Child in need of supervision” means:

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

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

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

"Delinquent act" means an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law, or a violation of a court order as provided for in § 16.1-292, except an act, which is otherwise lawful, but is designated a crime only if committed by a child.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his or her eighteenth birthday.

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

"Foster care" or "temporary foster care" means the provision of services or substitute care and supervision, for a child identified as needing services to prevent or eliminate the need for foster care placement or who has been committed or entrusted to a local board of public welfare or child welfare agency or for whom the board or child welfare agency has accepted supervision, in a temporary living situation until the child can return to his or her family or be placed in a permanent foster care placement or in an adoptive home.

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

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1 of this Code, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing.

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

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

"Legal custody" means a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities.

"Permanent foster care placement" means the place of residence in which a child resides and in which he or she has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he or she reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

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

"Spouse abuse" means any act of violence, including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed by a person against such person's spouse, notwithstanding that such persons are separated and living apart.

"State Board" means the State Board of Corrections.

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

§ 16.1-241. Jurisdiction.—The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services , *in need of supervision*, or delinquent;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244 hereof;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244 hereof;

6. Who is charged with a traffic infraction as defined in § 46.1-1 (40).

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents and other blood relatives and family members. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services. In any decree involving visitation, the juvenile and domestic relations district court may provide in such decree for visitation privileges for grandparents, stepparents or other family members.

B. The commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person. Such commitment and certification shall be in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1 of the Code. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

C. Except as provided in subdivision D hereof, judicial consent to such activities as may require parental consent may be given for a child, who has been separated from his or her parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child, who is neither married nor has ever been married, when the consent of his or her parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of this Commonwealth, (ii) his or her whereabouts is unknown, (iii) he or she cannot be consulted with promptness, reasonable under the circumstances or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

D1. [Repealed.]

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;
2. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or 63.1-204 or is otherwise before the court pursuant to subdivision A 4 of this section;
3. Who has been adjudicated in need of services, *in need of supervision*, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services which are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244 hereof.

H. In any case where a child is not qualified to obtain a work permit under other provisions of law.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law which causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court shall have jurisdiction, such jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses committed by one member of the family against another member of the family and the trial of all criminal warrants in which one member of the family is complainant against another member of the family. In prosecution for felonies over which the court shall have jurisdiction, said jurisdiction shall be limited to determining whether or not there is probable cause. The word "family" as herein used shall be construed to include husband and wife, parent and child, brothers and sisters, grandparent and grandchild, regardless of whether such persons reside in the same home.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his or her spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed by a spouse for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or § 16.1-279.1 as a result of spouse abuse.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Corrections.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of Chapter 11 of Title 16.1.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

§ 16.1-248.1. Criteria for detention or shelter care.—A. A child taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such child's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, a child may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the child committed the act alleged, and that at least one of the following conditions is met:

1. The child is alleged to have committed an act which would be a felony or Class 1 misdemeanor if committed by an adult, and there is clear and convincing evidence that:
  - a. The release of the child constitutes an unreasonable danger to the person or property of others;
  - b. The release of the child would present a clear and substantial threat of serious harm to such child's life or health; or
  - c. The child has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding twelve months.
2. The child has absconded from a detention home or facility operated by the

Department where he has been directed to remain by the lawful order of a judge or intake officer.

3. The child is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such child may be detained for a period not to exceed that provided for in § 16.1-323 of this chapter while arrangements are made to return the child to the lawful custody of a parent, guardian or other authority in another state.

4. The child has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the child has committed a delinquent act, ~~or that the child is in need of services or is in need of supervision~~; however, a child alleged to be in need of services ~~or in need of supervision~~ may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than seventy-two hours from the time he or she was taken into custody.

B. Any child not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a child may be placed in shelter care if:

1. The child is eligible for placement in a secure facility; or
2. The child has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release; or
3. The child's parent, guardian or other person able to provide supervision cannot be reached within a reasonable time; or
4. The child does not consent to return home; or
5. Neither the child's parent or guardian nor any other person able to provide proper supervision can arrive to assume custody within a reasonable time; or
6. The child's parent or guardian refuses to permit the child to return home and no relative or other person willing and able to provide proper supervision and care can be located within a reasonable time.

C. The criteria for continuing the child in detention or shelter care as set forth in this section shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition. Such criteria shall be supported by clear and convincing evidence in support of the decision not to release the child.

§ 16.1-260. Intake; petition; investigation.—A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection E herein and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, the Commonwealth's attorney of the city or county may file a petition on his own motion and the Department of Social Services may file support petitions on its own motion with the clerk. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1 of the Code. Motions and other subsequent pleadings in a case shall be filed directly with the clerk.

B. When the court service unit of any court receives a complaint or a warrant issued pursuant to subdivision 3 of § 16.1-256 alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) ~~a~~ person has deserted, abandoned or failed to provide support for any person in violation of law, or (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law. If any such complainant does not file a petition, the intake officer may file it. In cases ~~where in which~~ a child is alleged to be abused, neglected, in need of services, ~~in need of supervision~~ or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or child or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.

**B1.** Prior to the filing of any petition alleging that a juvenile is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the juvenile alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. When the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services, then he shall permit the petition to be filed.

**C.** If the intake officer refuses to authorize a petition, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. In the event a magistrate shall find probable cause to believe that an offense if committed by an adult would constitute a felony or a Class 1 misdemeanor, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248 have been satisfied, the child may be detained pursuant to the warrant issued in accordance with this subsection **C**.

**D.** The intake officer shall notify the Commonwealth's attorney of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

**E.** The filing of a petition shall not be necessary:

**1.** In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations or animal control violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults.

**2.** In the case of issuance of a work permit pursuant to subdivision H of § 16.1-241. The court shall issue such permits on the forms prescribed in Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code.

**F.** Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

**§ 16.1-264. Service of summons; proof of service; penalty.—A.** If a party designated in § 16.1-263 A to be served with a summons can be found within the Commonwealth, the summons shall be served upon him in person. However, service of the summons on one parent in person shall be deemed to be sufficient service on both parents in cases where *in which* (i) the child is alleged to be in need of services, *in need of supervision* or delinquent, and custody of the child is not in issue; and (ii) the serving officer has reasonable grounds to believe the parents are living together in the same household, provided a copy of the summons is served on the parent who was not served in person by substituted service as prescribed in § 8.01-296 (2) and the serving officer notes on the return that he believes the parents are living together.

If a party designated to be served in § 16.1-263 is within the Commonwealth and cannot be found, but his address is known or can with reasonable diligence be ascertained, the summons may be served upon him by mailing a copy thereof by certified mail return receipt requested. If he is without the Commonwealth but can be found or his address is known, or can with reasonable diligence be ascertained, service of summons may be made either by delivering a copy thereof to him personally or by mailing a copy thereof to him by certified mail return receipt requested.

If after reasonable effort a party other than the person who is the subject of the petition cannot be found or his post-office address cannot be ascertained, whether he is within or without the Commonwealth, the court may order service of the summons upon him by publication in accordance with the provisions of §§ 8.01-316 and 8.01-317.

**B.** Service of summons may be made under the direction of the court by sheriffs, their deputies and police officers in counties and cities or by any other suitable person designated by the court.

**C.** Proof of service may be made by the affidavit of the person other than an officer designated in subsection B hereof who delivers a copy of the summons to the person summoned, but if served by a state, county or municipal officer his return shall be sufficient without oath.

D. The summons shall be considered a mandate of the court and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment as for contempt.

§ 16.1-266. Appointment of counsel.—A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition terminating residual parental rights or is otherwise before the court pursuant to ~~subsection~~ *subdivision* A 4 of § 16.1-241, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child.

B. Prior to the detention review hearing or the adjudicatory or transfer hearing by the court of any case involving a child who is alleged to be in need of services, *in need of supervision* or delinquent, such child and his or her parent, guardian, legal custodian or other person standing in loco parentis shall be informed by a judge, clerk or probation officer of the child's right to counsel and of the liability of the parent, guardian, legal custodian or other person standing in loco parentis for the costs of such legal services pursuant to § 16.1-267 and be given an opportunity to:

1. Obtain and employ counsel of the child's own choice; or

2. If the court determines that the child is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159 and his or her parent, guardian, legal custodian or other person standing in loco parentis does not retain an attorney for the child, a statement of indigence substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such child, and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney, if the court finds the child and the parent, guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, to such waiver and that the interests of the child and the parent, guardian, legal custodian or other person standing in loco parentis in the proceeding are not adverse. Such written waiver shall be in accordance with law and shall be filed with the court records of the case.

C. Prior to the hearing by the court of any case involving a parent, guardian or other adult charged with abuse or neglect of a child or a parent or guardian who could be subjected to the loss of residual parental rights and responsibilities, such parent, guardian or other adult shall be informed by a judge, clerk or probation officer of his right to counsel and be given an opportunity to:

1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court shall appoint an attorney-at-law to represent him; or

3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

D. In all other cases which in the discretion of the court require counsel or a guardian ad litem to represent the interests of the child or children or the parent or guardian, a discreet and competent attorney-at-law may be appointed by the court. However, in cases where the custody of a child or children is the subject of controversy or requires determination and each of the parents or other persons claiming a right to custody is represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent the interests of the child or children unless the court finds, at any stage in the proceedings in a specific case, that the interests of the child or children are not otherwise adequately represented.

§ 16.1-279. Disposition.—A. If a child is found to be abused or neglected, or is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian, or is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition to protect the welfare of the child:

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

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child, and his or her parent, guardian, legal custodian, other person standing in loco parentis or other adult occupant of the same dwelling.

2a. Prohibit or limit contact as the court deems appropriate between the child and his or her parent, guardian, legal custodian, other person standing in loco parentis or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. Such prohibition may include the exclusion of any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter.

3. After a finding that there is no less drastic alternative, transfer legal custody subject to the provisions of § 16.1-281 to any of the following:

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

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; however, no court shall transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody. However, such local board, if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child. Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court whether reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

4. Transfer legal custody pursuant to subdivision A 3 hereof and order the parent, guardian, legal custodian or other person standing in loco parentis to participate in such services and programs or to refrain from such conduct as the court may prescribe.

5. Terminate the rights of such parent, guardian, legal custodian or other person standing in loco parentis pursuant to § 16.1-283.

B. Where a parent or other custodian seeks to be relieved of the care and custody of any child pursuant to subdivision A 4 of § 16.1-241 or where a public or private agency seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the juvenile court or the circuit court may, after compliance with § 16.1-277, make any of the orders of disposition permitted in a case involving an abused or neglected child. If the parent or other custodian seeks to be relieved permanently of the care and custody of any child or where a public or private agency seeks to gain approval of a permanent entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204, the juvenile court or the circuit court may, after compliance with § 16.1-277, terminate the parental rights of the parent or other custodian and appoint a local board of public welfare or social services or a licensed child-placing agency as custodian of the child with the authority to place the child for adoption and consent thereto. However, no order of disposition pursuant to this subsection B shall be made over the objection of any party, which was not provided for or requested in the entrustment agreement or in the petition's prayer for relief.

C. If a child is found to be in need of services, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

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

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.

2a. Order the parent, guardian, legal custodian or other person standing in loco parentis of a child living with such person to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and parent, guardian, legal custodian or other person standing in loco parentis of such child.



3. Place the child on probation under such conditions and limitations as the court may prescribe.

4. In the case of any child, fourteen years of age or older, where the court finds that the school officials have made a diligent effort to meet the child's educational needs, and after study, the court further finds that the child is not able to benefit appreciably from further schooling, the court may:

a. Excuse the child from further compliance with any legal requirement of compulsory school attendance, and

b. Authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of eighteen.

5. Transfer legal custody to any of the following:

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

b. A child welfare agency, private organization or facility which is licensed or otherwise is authorized by law to receive and provide care for such child; however, no court shall transfer legal custody of a child in need of services to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody. Such local board if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child. Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court whether reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

6. Require the child to participate in a public service project under such conditions as the court prescribes.

*C1. If a child is found to be in need of supervision, the court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child. Any order entered pursuant to this subsection shall be provided in writing to the child, his or her parent or legal custodian and to the child's attorney and shall contain adequate notice of the provisions of § 16.1-292 regarding willful violation of such order.*

*1. Enter any order of disposition authorized by subsection C of this section.*

*2. Place the child on probation under such conditions and limitations as the court may prescribe.*

*3. Order the child, the child's parent, guardian or legal custodian to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child.*

*4. Require the child to participate in a public service project as authorized by subdivision E 7a of this section, under such conditions as the court may prescribe.*

D. Unless a child found to be abused, neglected or in need of services shall also be found to be delinquent and shall be older than ten years of age, he shall not be committed to the State Board of Corrections. No juvenile court or circuit court shall order the commitment of any child jointly to the State Board of Corrections and to a local board of public welfare or social services or transfer the custody of a child jointly to a court service unit of a juvenile court and to a local board of public welfare or social services pursuant to this section.

E. If a child is found to be delinquent, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

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

2. Permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.

3. Order the parent, guardian, legal custodian or other person standing in loco parentis

of a child living with such person to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and parent, guardian, legal custodian or other person standing in loco parentis of such child.

3a. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the child exhibits good behavior during the period which disposition is deferred.

3b. Without entering a judgment of guilty and with the consent of the child and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the child on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt.

3c. Order the parent of a child with whom the child does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child where the court determines this participation to be in the best interest of the child and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order.

4. Place the child on probation under such conditions and limitations as the court may prescribe.

5. Impose a fine not to exceed \$500 upon such child.

6. Suspend the motor vehicle and operator's license of such child.

7. Require the child to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the child was found to be delinquent.

7a. Require the child to participate in a public service project under such conditions as the court prescribes. For purposes of this section a "public service project" shall mean any governmental or quasi-governmental agency project or any project of a nonprofit corporation or association operated exclusively for charitable or community purposes.

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

9. Transfer legal custody to any of the following:

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

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child; however, no court shall transfer legal custody of a delinquent child to an agency, organization or facility outside of the Commonwealth without the approval of the Director.

c. The local board of public welfare or social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction, which board shall accept such child for care and custody. Such local board, if one other than in the county or city in which the court has jurisdiction, shall not be required to accept such child until it has been given reasonable notice of the pendency of the case and an opportunity to be heard. Nothing herein shall be construed as prohibiting the commitment of a child to any local board of public welfare or social services in the Commonwealth when such local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child. Any order authorizing removal from the home and transferring legal custody of a child to a local board of public welfare or social services as provided in this subdivision shall be entered only upon a finding by the court whether reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

10. Commit the child to the Department of Corrections; however, no child ten years of age or under shall be committed to the Department.

11. Impose the penalty authorized by § 16.1-284.

12. Impose the penalty authorized by § 16.1-284.1.

13. Impose the penalty authorized by § 16.1-285.1.

F. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of

the child and family as may be made by the circuit court. In any case involving the custody of a child, custody may be awarded upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents and other blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

F1. In cases involving a child who is charged with a traffic infraction, impose only those penalties which are authorized to be imposed on adults for such infractions.

G. In cases involving a person who is adjudged mentally ill or is judicially certified as eligible for admission to a treatment facility for the mentally retarded, disposition shall be in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1 of the Code. No child shall be committed pursuant to this section or the provisions of Title 37.1 of this Code to a maximum security unit within any state mental hospital where adults determined to be criminally insane reside.

H. In cases involving judicial consent to the matters set out in subdivisions C and D of § 16.1-241, the juvenile court or the circuit court may make any appropriate order to protect the health and welfare of the child.

I. In cases involving charges of desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20 of the Code.

J. In cases involving a child who is not able to obtain a work permit under other provisions of law, the juvenile court or the circuit court may grant a special work permit on forms furnished by the Department of Labor and Industry, subject to such restrictions and conditions as it may deem appropriate and as may be set out in Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code.

K. In cases involving petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services required by law to be provided for such persons, the juvenile court or the circuit court, as the case may be, may enter an order in accordance with § 16.1-278.

L. In cases involving the violation of any law, regulation or ordinance for the education, protection or care of children or involving offenses committed by one spouse against another, the juvenile court or the circuit court may impose a penalty prescribed by applicable sections of the Code. However, in cases involving offenses committed by one spouse against another, the court may impose conditions and limitations in an effort to effect the reconciliation and rehabilitation of the parties, including, but not limited to, an order of protection as provided in § 16.1-279.1, treatment and counseling for either or both spouses and payment by the defendant spouse for crisis shelter care for the complaining spouse.

M. In cases involving a spouse who seeks spousal support after having separated from his or her spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

N. In any matter properly before the court, the court may make such award of attorneys' fees and costs on behalf of any party as the court may deem appropriate for retained attorneys based on the relative financial ability of the parties.

O. Each juvenile and domestic relations district court may enter judgment for money in any amount for arrears of support and maintenance of any person in cases in which (1) the court has previously acquired personal jurisdiction over all necessary parties or a proceeding in which such jurisdiction has been obtained, has been referred or transferred to the court by a circuit court or another juvenile and domestic relations district court, and (2) payment of such money has been previously ordered by the court, a circuit court, or another juvenile and domestic relations district court. However, no such judgment shall be entered unless the motion of a party, a probation officer, a superintendent of public welfare, or on the court's own motion, is duly served on the person against whom judgment is sought, in accordance with the applicable provisions of law relating to notice when proceedings are reopened. The motion shall contain a caption stating the name of the court, the title of the action, the names of all parties and the address of the party against whom judgment is sought, the amount of arrearage for which judgment is sought, and the date and time when such judgment will be sought.

P. The judge or clerk of the court shall certify and deliver an abstract of any judgment entered pursuant to this section to the clerk of the circuit court of the same judicial district, and executions upon such judgment shall be issued by the clerk of such circuit

court.

Q. If the amount of the judgment does not exceed the jurisdictional limits of § 16.1-77 (1), exclusive of interest and any attorneys' fees, an abstract of any such judgment entered pursuant to this section may be delivered to the clerk of the general district court of the same judicial district, and executions upon such judgment shall be issued by the clerk of such general district court.

R. Arrearages accumulated prior to July 1, 1976, shall also be subject to the provisions of this section.

S. In cases involving (i) the custody, visitation or support of a child arising under § 16.1-241 A 3, (ii) spousal support arising under § 16.1-241 L or (iii) support, maintenance, care, and custody of a child or support and maintenance of a spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79, when the court finds that the respondent (i) has failed to perform or comply with a court order concerning the custody and visitation or the support and maintenance of a child or the support and maintenance of a spouse, or (ii) under existing circumstances, is under a duty to render support or additional support to a child or pay the support and maintenance of a spouse, the court may order a payroll deduction as provided in § 20-79.1, or the giving of a recognizance as provided in § 20-114. If the court finds that the respondent has failed to perform or comply with such order, the court also may order the commitment of the person as provided in § 20-115 or the court may, in its discretion, impose a sentence of up to twelve months in jail, notwithstanding the provisions of §§ 16.1-69.24 and 18.2-458, relating to punishment for contempt. If the court finds that an employer, who is under a payroll deduction order pursuant to § 20-79.1, has failed to comply with such order after being given a reasonable opportunity to show cause why he failed to comply with such order, then the court may proceed to impose sanctions on the employer pursuant to § 20-79.1 G.

§ 16.1-292. Violation of court order by any person.— A. Any person violating an order of the juvenile court entered into pursuant to § 16.1-279 may be proceeded against (i) by an order requiring the person to show cause why the order of the court entered into pursuant to § 16.1-279 has not been complied with, or (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its power to punish summarily for contempt for such acts as set forth in § 18.2-456, except that confinement in the case of a juvenile shall be in a secure facility for juveniles rather than in jail and shall not exceed a period of ten days for each offense.

B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order of a juvenile court for spousal support under § 16.1-279 M or child support under § 16.1-279 F, the court may commit and sentence such party to confinement in a jail, workhouse, city farm or work squad as provided in §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no event, however, shall such sentence be imposed for a period of more than twelve months. The sum or sums as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance of the spouse or the child or children for whose benefit such order or decree provided.

C. Notwithstanding the contempt power of the court, the court shall be limited in the actions it may take with respect to a child violating the terms and conditions of an order to those which the court could have taken at the time of the court's original disposition pursuant to § 16.1-279, except as hereinafter provided.

D. In the event a child in need of services is found to have willfully and materially violated for a second or subsequent time the lawful order of the court pursuant to § 16.1-279 C, the dispositional alternatives specified in paragraphs subdivisions 5 and 6 of § 16.1-279 E shall be available to the court.

E. In the event a child in need of supervision is found to have willfully and materially violated a lawful order of the court pursuant to § 16.1-279 C1, the court may enter any of the following orders of disposition:

- 1. Impose a fine not to exceed \$500 upon such child;
2. Suspend the child's motor vehicle operator's license;
3. Order any such child fourteen years of age or older to be detained in a secure facility for a period of time not to exceed ten consecutive days for the first violation of a court order and, after a separate hearing, for a period not to exceed twenty consecutive days for subsequent violations of a court order. In no instance shall a juvenile be detained pursuant to this subdivision for a total period exceeding thirty days for violation of any order of the court arising out of the same petition. A juvenile may only be detained

*pursuant to this section in a detention home or other secure facility in compliance with standards established by the State Board. Standards for these facilities shall provide for the separation of children in need of supervision from other children detained in the same facility for delinquent offenses.*

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

**G. Any order issued pursuant to this section affecting the substantive rights of any individual shall be appealable to the circuit court at any time after the entry thereof.**

**§ 46.1-357. Persons under eighteen; exception as to and procedure for licensing persons of sixteen and under eighteen.—No driver's license shall be issued to any person under the age of eighteen years except as hereinafter provided, and no chauffeur's endorsement shall be issued to any person under the age of eighteen years except that:**

**(1) A driver's license may be issued to a minor of the age of sixteen years upon proper application therefor and upon satisfactory evidence that the minor has successfully completed a driver education course which has been approved by the State Department of Education and is mentally, physically and otherwise qualified to drive a motor vehicle with safety. The application must be signed by the father or the mother of the applicant, otherwise by the guardian having custody of such minor or in the event a minor has no father, mother or guardian, then a driver's license shall not be issued to the minor unless his application therefor is signed by the judge of the juvenile and domestic relations district court of the city or county in which the applicant resides. If the minor making such application is married, in lieu of the consent required in the preceding sentence, upon proper evidence of the solemnization of the marriage, the spouse of such minor may sign the application, if the spouse is over the age of eighteen years. Any father or mother, spouse or guardian, as the case may be, may thereafter file with the Department of Motor Vehicles a written request that the license of said minor so granted be cancelled. Thereupon, the Department of Motor Vehicles shall cancel the license of said minor and such license shall not thereafter be reissued by the Department of Motor Vehicles until a period of six months has elapsed from the date of cancellation. The minor shall be required to state in his application whether or not he has been convicted of an offense triable by, or tried in, a juvenile and domestic relations district court or found by such court to be a child in need of supervision, as defined in § 16.1-228 . If it appears that such minor has been adjudged not innocent of the offense alleged or has been found to be a child in need of supervision , the Department of Motor Vehicles shall not issue a license without the written approval of the judge of the juvenile and domestic relations district court making an adjudication as to such minor or the like approval of a similar court of the county or city in which the parent, guardian, or spouse respectively of the child resides.**

**(1a) The provisions of subdivision (1) of this section requiring that an application for a driver's license be signed by the parent, guardian, or spouse over the age of eighteen shall be waived by the Commissioner if the application is accompanied by a certified copy of a court order, issued under the provisions of Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, declaring the applicant to be an emancipated minor.**

**(2) The Department of Motor Vehicles, upon receiving from any person over the age of fifteen years eight months, an application for an instruction permit may, in its discretion, issue such a permit entitling the applicant, while having such a permit in his immediate possession, to drive a motor vehicle upon the highways for a period of one year, when accompanied by a licensed driver eighteen years of age or older who is actually occupying a seat by the driver. The Department of Motor Vehicles shall charge a fee of three dollars for each instruction permit issued under the provisions of this section, which shall be paid into the driver education fund of the state treasury. It shall be unlawful for any person, after having received such instruction permit, to operate a motor vehicle without being so accompanied by a licensed driver. Persons who violate this section may be prosecuted and punished under either, but not both, § 46.1-349 or § 46.1-387.**

**(3) Notwithstanding the provisions of (2) above, the Department of Motor Vehicles shall not issue an instruction permit with a classification entitling the person to whom the permit is issued to operate motorcycles unless: (a) The person is receiving instructions from a qualified instructor in a course approved by the State Department of Education; (b) the person has successfully completed the off-street portion of the course; (c) when the instruction is conducted on the public streets and highways it must follow a prescribed course which has been approved by the local chief of police or sheriff; (d) the persons receiving the instruction, or the motorcycles used in the instruction will be clearly marked "STUDENT DRIVER"; (e) the person will be under the supervision of his instructor at all**

times; and (f) no person, except the person receiving the instruction, may occupy the motorcycle when instruction is being given.

2. That the provisions of this act shall become effective on July 1, 1988.

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President of the Senate

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Speaker of the House of Delegates

Approved:

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Governor

## 1989 SESSION

LD5989455

## HOUSE BILL NO. 1911

Offered January 24, 1989

*A BILL to amend and reenact §§ 16.1-248.1, 16.1-274, 16.1-279 and 16.1-292 of the Code of Virginia, relating to juvenile and domestic relations district courts.*

Patrons—Dicks, Jones, J. C., Croshaw and Forehand; Senator: Lambert

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-248.1, 16.1-274, 16.1-279 and 16.1-292 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-248.1. Criteria for detention or shelter care.—A. A child taken into custody whose case is considered by a judge, intake officer or magistrate pursuant to § 16.1-247 shall immediately be released, upon the ascertainment of the necessary facts, to the care, custody and control of such child's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child, either on bail or recognizance pursuant to Chapter 9 (§ 19.2-119 et seq.) of Title 19.2 or under such conditions as may be imposed or otherwise. However, a child may be detained in a secure facility, pursuant to a detention order or warrant, only upon a finding by the judge, intake officer, or magistrate, that there is probable cause to believe that the child committed the act alleged, and that at least one of the following conditions is met:

1. The child is alleged to have committed an act which would be a felony or Class 1 misdemeanor if committed by an adult, and there is clear and convincing evidence that:

a. The release of the child constitutes an unreasonable danger to the person or property of others;

b. The release of the child would present a clear and substantial threat of serious harm to such child's life or health; or

c. The child has threatened to abscond from the court's jurisdiction during the pendency of the instant proceedings or has a record of willful failure to appear at a court hearing within the immediately preceding twelve months.

2. The child has absconded from a detention home or facility where he has been directed to remain by the lawful order of a judge or intake officer.

3. The child is a fugitive from a jurisdiction outside the Commonwealth and subject to a verified petition or warrant, in which case such child may be detained for a period not to exceed that provided for in § 16.1-323 of this chapter while arrangements are made to return the child to the lawful custody of a parent, guardian or other authority in another state.

4. The child has failed to appear in court after having been duly served with a summons in any case in which it is alleged that the child has committed a delinquent act, is in need of services or is in need of supervision; however, a child alleged to be in need of services or in need of supervision may be detained for good cause pursuant to this subsection only until the next day upon which the court sits within the county or city in which the charge against the child is pending, and under no circumstances longer than seventy-two hours from the time he or she was taken into custody.

B. Any child not meeting the criteria for placement in a secure facility shall be released to a parent, guardian or other person willing and able to provide supervision and care under such conditions as the judge, intake officer or magistrate may impose. However, a child may be placed in shelter care if:

1. The child is eligible for placement in a secure facility; or

2. The child has failed to adhere to the directions of the court, intake officer or magistrate while on conditional release; or

3. The child's parent, guardian or other person able to provide supervision cannot be reached within a reasonable time; or

1 4. The child does not consent to return home; or

2 5. Neither the child's parent or guardian nor any other person able to provide proper  
3 supervision can arrive to assume custody within a reasonable time; or

4 6. The child's parent or guardian refuses to permit the child to return home and no  
5 relative or other person willing and able to provide proper supervision and care can be  
6 located within a reasonable time.

7 C. The criteria for continuing the child in detention or shelter care as set forth in this  
8 section shall govern the decisions of all persons involved in determining whether the  
9 continued detention or shelter care is warranted pending court disposition. Such criteria  
10 shall be supported by clear and convincing evidence in support of the decision not to  
11 release the child.

12 *D. Nothing in this section shall be construed to deprive the court of its power to*  
13 *punish a child summarily for contempt for acts set forth in § 18.2-456, other than acts of*  
14 *disobedience of the court's dispositional order which are committed outside the presence of*  
15 *the court.*

16 § 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports;  
17 fees.—A. Whenever any court directs an investigation pursuant to § 16.1-237 A or § 16.1-273  
18 or an evaluation pursuant to § 16.1-279 C1, the probation officer or other agency  
19 conducting such investigation shall file such report with the clerk of the court directing the  
20 investigation. The clerk shall furnish a copy of such report to all attorneys representing  
21 parties in the matter before the court no later than seventy-two hours, and in cases of  
22 child custody, five days, prior to the time set by the court for hearing the matter. If such  
23 probation officer or other agency discovers additional information or a change in  
24 circumstance after the filing of the report, an amended report shall be filed forthwith and  
25 a copy sent to each person who received a copy of the original report. Whenever such a  
26 report is not filed or an amended report is filed, the court shall grant such continuance of  
27 the proceedings as justice requires. All attorneys receiving such report or amended report  
28 shall return such to the clerk upon the conclusion of the hearing and shall not make  
29 copies of such report or amended report or any portion thereof.

30 B. Notwithstanding the provisions of §§ 14.1-112, 14.1-113 and 14.1-125, when the court  
31 directs the appropriate department of social services to conduct an investigation pursuant to  
32 § 16.1-273 in adjudicating matters involving a child's custody, visitation or support, the court  
33 may assess a fee against the petitioner, the respondent or both, in accordance with  
34 regulations and fee schedules established by the State Board of Social Services. The State  
35 Board of Social Services shall establish regulations and fee schedules, which shall include  
36 (i) standards for determining the paying party's or parties' ability to pay and (ii) a scale  
37 of fees based on the paying party's or parties' income and family size and the actual  
38 statewide average cost of the services provided. The fee charged shall not exceed the  
39 actual cost of the service. The fee shall be paid as prescribed by the court to the  
40 department of social services which performed the service, unless payment is waived.

41 § 16.1-279. Disposition.—A. If a child is found to be abused or neglected, or is at risk of  
42 being abused or neglected by a parent or custodian who has been adjudicated as having  
43 abused or neglected another child in the care of the parent or custodian, or is abandoned  
44 by his parent or other custodian or who by reason of the absence or physical or mental  
45 incapacity of his parents is without parental care and guardianship, the juvenile court or  
46 the circuit court, as the case may be, may make any of the following orders of disposition  
47 to protect the welfare of the child:

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

49 2. Permit the child to remain with his or her parent, guardian, legal custodian or other  
50 person standing in loco parentis subject to such conditions and limitations as the court may  
51 order with respect to such child, and his or her parent, guardian, legal custodian, other  
52 person standing in loco parentis or other adult occupant of the same dwelling.

53 2a. Prohibit or limit contact as the court deems appropriate between the child and his  
54 or her parent, guardian, legal custodian, other person standing in loco parentis or other



1 adult occupant of the same dwelling whose presence tends to endanger the child's life,  
2 health or normal development. Such prohibition may include the exclusion of any such  
3 individual from the home under such conditions as the court may prescribe for a period to  
4 be determined by the court but in no event for longer than 180 days from the date of such  
5 determination. A hearing shall be held within 150 days to determine further disposition of  
6 the matter.

7 3. After a finding that there is no less drastic alternative, transfer legal custody subject  
8 to the provisions of § 16.1-281 to any of the following:

9 a. A relative or other individual who, after study, is found by the court to be qualified  
10 to receive and care for the child.

11 b. A child welfare agency, private organization or facility which is licensed or otherwise  
12 authorized by law to receive and provide care for such child; however, no court shall  
13 transfer legal custody of an abused or neglected child to an agency, organization or facility  
14 out of the Commonwealth without the approval of the Commissioner of Social Services.

15 c. The local board of public welfare or social services of the county or city in which  
16 the court has jurisdiction or, at the discretion of the court, to the local board of the county  
17 or city in which the child has residence if other than the county or city in which the court  
18 has jurisdiction, which board shall accept such child for care and custody. However, such  
19 local board shall not be required to accept such child until it has been given reasonable  
20 notice of the pendency of the case and an opportunity to be heard, provided that, in an  
21 emergency in the county or city in which the court has jurisdiction, such local board may  
22 be required to accept a child for a period not to exceed fourteen days without prior notice  
23 or an opportunity to be heard if the judge entering the placement order describes the  
24 emergency and the need for such temporary placement in the order. Nothing herein shall  
25 be construed as prohibiting the commitment of a child to any local board of public welfare  
26 or social services in the Commonwealth when such local board consents to the  
27 commitment. The board to which the child is committed shall have the final authority to  
28 determine the appropriate placement for the child. Any order authorizing removal from the  
29 home and transferring legal custody of a child to a local board of public welfare or social  
30 services as provided in this subdivision shall be entered only upon a finding by the court  
31 that reasonable efforts have been made to prevent removal and that continued placement  
32 in the home would be contrary to the welfare of the child, and the order shall so state.

33 4. Transfer legal custody pursuant to subdivision A 3 hereof and order the parent,  
34 guardian, legal custodian or other person standing in loco parentis to participate in such  
35 services and programs or to refrain from such conduct as the court may prescribe.

36 5. Terminate the rights of such parent, guardian, legal custodian or other person  
37 standing in loco parentis pursuant to § 16.1-283.

38 B. When a parent or other custodian seeks to be relieved of the care and custody of  
39 any child pursuant to subdivision A 4 of § 16.1-241 or when a public or private agency  
40 seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the  
41 juvenile court or the circuit court may, after compliance with § 16.1-277, make any of the  
42 orders of disposition permitted in a case involving an abused or neglected child. If the  
43 parent or other custodian seeks to be relieved permanently of the care and custody of any  
44 child or when a public or private agency seeks to gain approval of a permanent  
45 entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204, the juvenile court  
46 or the circuit court may, after compliance with § 16.1-277, terminate the parental rights of  
47 the parent or other custodian and appoint a local board of public welfare or social services  
48 or a licensed child-placing agency as custodian of the child with the authority to place the  
49 child for adoption and consent thereto. The parental rights of the remaining parent may be  
50 terminated even though that parent has not entered into an entrustment agreement if the  
51 court finds, based upon clear and convincing evidence, that it is in the best interests of the  
52 child and that (i) the identity of the parent is not reasonably ascertainable or (ii) the  
53 identity and whereabouts of the parent are known or reasonably ascertainable, and the  
54 parent is personally served with notice of the termination proceeding pursuant to § 8.01-296

1 or § 8.01-320, or (iii) the whereabouts of the parent are not reasonably ascertainable and  
2 the parent is given notice of termination proceedings by certified or registered mail to the  
3 last known address and such parent fails to object to the proceedings within twenty-one  
4 days of the mailing of such notice or (iv) the whereabouts of the parent are not  
5 reasonably ascertainable and the parent is given notice of termination proceedings through  
6 an order of publication, published at least once per week in a newspaper having general  
7 circulation in the area for a period of four weeks, and such parent fails to object to the  
8 proceedings. Proceedings under this subsection shall be advanced on the docket so as to  
9 provide for their earliest practicable disposition. No order of disposition pursuant to this  
10 subsection B shall be made over the objection of any party, which was not provided for or  
11 requested in the entrustment agreement or in the petition's prayer for relief.

12 C. If a child is found to be in need of services, the juvenile court or the circuit court,  
13 as the case may be, may make any of the following orders of disposition for the  
14 supervision, care and rehabilitation of the child:

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

16 2. Permit the child to remain with his or her parent, guardian, legal custodian or other  
17 person standing in loco parentis subject to such conditions and limitations as the court may  
18 order with respect to such child and his or her parent, guardian, legal custodian or other  
19 person standing in loco parentis.

20 2a. Order the parent, guardian, legal custodian or other person standing in loco parentis  
21 of a child living with such person to participate in such programs, cooperate in such  
22 treatment or be subject to such conditions and limitations as the court may order and as  
23 are designed for the rehabilitation of the child and parent, guardian, legal custodian or  
24 other person standing in loco parentis of such child.

25 3. [Repealed.]

26 4. In the case of any child, fourteen years of age or older, where the court finds that  
27 the school officials have made a diligent effort to meet the child's educational needs, and  
28 after study, the court further finds that the child is not able to benefit appreciably from  
29 further schooling, the court may:

30 a. Excuse the child from further compliance with any legal requirement of compulsory  
31 school attendance, and

32 b. Authorize the child, notwithstanding the provisions of any other law, to be employed  
33 in any occupation which is not legally declared hazardous for children under the age of  
34 eighteen.

35 5. Transfer legal custody to any of the following:

36 a. A relative or other individual who, after study, is found by the court to be qualified  
37 to receive and care for the child.

38 b. A child welfare agency, private organization or facility which is licensed or otherwise  
39 is authorized by law to receive and provide care for such child; however, no court shall  
40 transfer legal custody of a child in need of services to an agency, organization or facility  
41 out of the Commonwealth without the approval of the Commissioner of Social Services.

42 c. The local board of public welfare or social services of the county or city in which  
43 the court has jurisdiction or, at the discretion of the court, to the local board of the county  
44 or city in which the child has residence if other than the county or city in which the court  
45 has jurisdiction, which board shall accept such child for care and custody. Such local board  
46 shall not be required to accept such child until it has been given reasonable notice of the  
47 pendency of the case and an opportunity to be heard, provided that, in an emergency in  
48 the county or city in which the court has jurisdiction, such local board may be required to  
49 accept a child for a period not to exceed fourteen days without prior notice or an  
50 opportunity to be heard if the judge entering the placement order describes the emergency  
51 and the need for such temporary placement in the order. Nothing herein shall be  
52 construed as prohibiting the commitment of a child to any local board of public welfare or  
53 social services in the Commonwealth when such local board consents to the commitment.  
54 The board to which the child is committed shall have the final authority to determine the

1 appropriate placement for the child. Any order authorizing removal from the home and  
2 transferring legal custody of a child to a local board of public welfare or social services as  
3 provided in this subdivision shall be entered only upon a finding by the court that  
4 reasonable efforts have been made to prevent removal and that continued placement in the  
5 home would be contrary to the welfare of the child, and the order shall so state.

6 6. Require the child to participate in a public service project under such conditions as  
7 the court prescribes.

8 C1. If a child is found to be in need of supervision, the court *shall, before final*  
9 *disposition thereof, direct the appropriate public agency to evaluate the child's service*  
10 *needs using an interdisciplinary team approach, such team consisting of qualified*  
11 *personnel who are reasonably available from the appropriate department of social services,*  
12 *community services board, local school division, court service unit and other appropriate*  
13 *and available public and private agencies. A report of such evaluation shall be filed as*  
14 *provided in § 16.1-274 A. The court may make any of the following orders of disposition*  
15 *for the supervision, care and rehabilitation of the child. Any order entered pursuant to this*  
16 *subsection shall be provided in writing to the child, his or her parent or legal custodian*  
17 *and to the child's attorney and shall contain adequate notice of the provisions of § 16.1-292*  
18 *regarding willful violation of such order.*

19 1. Enter any order of disposition authorized by subsection C of this section.

20 2. Place the child on probation under such conditions and limitations as the court may  
21 prescribe.

22 3. Order the child, the child's parent, guardian or legal custodian to participate in such  
23 programs, cooperate in such treatment or be subject to such conditions and limitations as  
24 the court may order and as are designed for the rehabilitation of the child.

25 4. Require the child to participate in a public service project as authorized by  
26 subdivision E 7a of this section, under such conditions as the court may prescribe.

27 D. Unless a child found to be abused, neglected or , in need of services *or in need of*  
28 *supervision* shall also be found to be delinquent and shall be older than ten years of age,  
29 he shall not be committed to the State Board of Corrections. No juvenile court or circuit  
30 court shall order the commitment of any child jointly to the State Board of Corrections and  
31 to a local board of public welfare or social services or transfer the custody of a child  
32 jointly to a court service unit of a juvenile court and to a local board of public welfare or  
33 social services pursuant to this section.

34 E. If a child is found to be delinquent, the juvenile court or the circuit court may  
35 make any of the following orders of disposition for his supervision, care and rehabilitation:

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

37 2. Permit the child to remain with his or her parent, guardian, legal custodian or other  
38 person standing in loco parentis subject to such conditions and limitations as the court may  
39 order with respect to such child and his or her parent, guardian, legal custodian or other  
40 person standing in loco parentis.

41 3. Order the parent, guardian, legal custodian or other person standing in loco parentis  
42 of a child living with such person to participate in such programs, cooperate in such  
43 treatment or be subject to such conditions and limitations as the court may order and as  
44 are designed for the rehabilitation of the child and parent, guardian, legal custodian or  
45 other person standing in loco parentis of such child.

46 3a. Defer disposition for a period of time not to exceed twelve months, after which  
47 time the charge may be dismissed by the judge if the child exhibits good behavior during  
48 the period which disposition is deferred.

49 3b. Without entering a judgment of guilty and with the consent of the child and his  
50 attorney, defer disposition of the delinquency charge for a period not to exceed twelve  
51 months and place the child on probation under such conditions and limitations as the court  
52 may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the  
53 child and dismiss the proceedings against him. Discharge and dismissal under these  
54 provisions shall be without adjudication of guilt.

1 3c. Order the parent of a child with whom the child does not reside to participate in  
2 such programs, cooperate in such treatment or be subject to such conditions and limitations  
3 as the court may order and as are designed for the rehabilitation of the child where the  
4 court determines this participation to be in the best interest of the child and other parties  
5 concerned and where the court determines it reasonable to expect the parent to be able to  
6 comply with such order.

7 4. Place the child on probation under such conditions and limitations as the court may  
8 prescribe.

9 5. Impose a fine not to exceed \$500 upon such child.

10 6. Suspend the motor vehicle and driver's license of such child.

11 7. Require the child to make restitution or reparation to the aggrieved party or parties  
12 for actual damages or loss caused by the offense for which the child was found to be  
13 delinquent.

14 7a. Require the child to participate in a public service project under such conditions as  
15 the court prescribes. For purposes of this section a "public service project" shall mean any  
16 governmental or quasi-governmental agency project or any project of a nonprofit  
17 corporation or association operated exclusively for charitable or community purposes.

18 8. In case of traffic violations, impose only those penalties which are authorized to be  
19 imposed on adults for such violations. However, for those violations punishable by  
20 confinement if committed by an adult, confinement shall be imposed only as authorized by  
21 this title.

22 9. Transfer legal custody to any of the following:

23 a. A relative or other individual who, after study, is found by the court to be qualified  
24 to receive and care for the child.

25 b. A child welfare agency, private organization or facility which is licensed or otherwise  
26 authorized by law to receive and provide care for such child; however, no court shall  
27 transfer legal custody of a delinquent child to an agency, organization or facility outside of  
28 the Commonwealth without the approval of the Director.

29 c. The local board of public welfare or social services of the county or city in which  
30 the court has jurisdiction or, at the discretion of the court, to the local board of the county  
31 or city in which the child has residence if other than the county or city in which the court  
32 has jurisdiction, which board shall accept such child for care and custody. Such local board  
33 shall not be required to accept such child until it has been given reasonable notice of the  
34 pendency of the case and an opportunity to be heard, provided that, in an emergency in  
35 the county or city in which the court has jurisdiction, such local board may be required to  
36 temporarily accept a child for a period not to exceed fourteen days without prior notice or  
37 an opportunity to be heard if the judge entering the placement order describes the  
38 emergency and the need for such temporary placement in the order. Nothing herein shall  
39 be construed as prohibiting the commitment of a child to any local board of public welfare  
40 or social services in the Commonwealth when such local board consents to the  
41 commitment. The board to which the child is committed shall have the final authority to  
42 determine the appropriate placement for the child. Any order authorizing removal from the  
43 home and transferring legal custody of a child to a local board of public welfare or social  
44 services as provided in this subdivision shall be entered only upon a finding by the court  
45 that reasonable efforts have been made to prevent removal and that continued placement  
46 in the home would be contrary to the welfare of the child, and the order shall so state.

47 10. Commit the child to the Department of Corrections; however, no child ten years of  
48 age or under shall be committed to the Department.

49 11. Impose the penalty authorized by § 16.1-284.

50 12. Impose the penalty authorized by § 16.1-284.1.

51 13. Impose the penalty authorized by § 16.1-285.1.

52 F. In cases involving the custody, visitation or support of a child pursuant to subdivision  
53 A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of  
54 the child and family as may be made by the circuit court, including an order that support

1 be paid for a child who is (i) a full-time high school senior, (ii) not self-supporting and  
2 (iii) living in the home of the parent seeking or receiving child support, until the child  
3 reaches the age of nineteen or graduates from high school, whichever occurs first. In any  
4 case involving the custody of a child, custody may be awarded upon petition to any party  
5 with a legitimate interest therein, including, but not limited to, grandparents and other  
6 blood relatives and family members. The term "legitimate interest" shall be broadly  
7 construed to accommodate the best interest of the child. The authority of the juvenile court  
8 to consider a petition involving the custody of a child shall not be proscribed or limited  
9 where the child has previously been awarded to the custody of a local board of social  
10 services. In any determination of support obligation under this section, the support  
11 obligation as it becomes due and unpaid creates a judgment by operation of law. Such  
12 judgment becomes a lien against real estate only when docketed in the county or city  
13 where such real estate is located. Nothing herein shall be construed to alter or amend the  
14 process of attachment of any lien on personal property.

15 F1. In cases involving a child who is charged with a traffic infraction, impose only  
16 those penalties which are authorized to be imposed on adults for such infractions.

17 G. In cases involving a person who is adjudged mentally ill or is judicially certified as  
18 eligible for admission to a treatment facility for the mentally retarded, disposition shall be  
19 in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.)  
20 of Title 37.1. No child shall be committed pursuant to this section or the provisions of Title  
21 37.1 to a maximum security unit within any state mental hospital where adults determined  
22 to be criminally insane reside.

23 H. In cases involving judicial consent to the matters set out in subdivisions C and D of  
24 § 16.1-241, the juvenile court or the circuit court may make any appropriate order to  
25 protect the health and welfare of the child.

26 I. In cases involving charges of desertion, abandonment or failure to provide support by  
27 any person in violation of law, disposition shall be made in accordance with Chapter 5 (§  
28 20-61 et seq.) of Title 20.

29 J. In cases involving a child who is not able to obtain a work permit under other  
30 provisions of law, the juvenile court or the circuit court may grant a special work permit  
31 on forms furnished by the Department of Labor and Industry, subject to such restrictions  
32 and conditions as it may deem appropriate and as may be set out in Chapter 5 (§ 40.1-78  
33 et seq.) of Title 40.1.

34 K. In cases involving petitions filed by or on behalf of a child or such child's parent,  
35 guardian, legal custodian or other person standing in loco parentis for the purpose of  
36 obtaining treatment, rehabilitation or other services required by law to be provided for  
37 such persons, the juvenile court or the circuit court, as the case may be, may enter an  
38 order in accordance with § 16.1-278.

39 L. In cases involving the violation of any law, regulation or ordinance for the education,  
40 protection or care of children or involving offenses committed by one spouse against  
41 another, the juvenile court or the circuit court may impose a penalty prescribed by  
42 applicable sections of the Code. However, in cases involving offenses committed by one  
43 spouse against another, the court may impose conditions and limitations in an effort to  
44 effect the reconciliation and rehabilitation of the parties, including, but not limited to, an  
45 order of protection as provided in § 16.1-279.1, treatment and counseling for either or both  
46 spouses and payment by the defendant spouse for crisis shelter care for the complaining  
47 spouse.

48 M. In cases involving a spouse who seeks spousal support after having separated from  
49 his or her spouse, the court may enter any appropriate order to protect the welfare of the  
50 spouse seeking support.

51 N. In any matter properly before the court, the court may make such award of  
52 attorneys' fees and costs on behalf of any party as the court may deem appropriate for  
53 retained attorneys based on the relative financial ability of the parties.

54 O. Each juvenile and domestic relations district court may enter judgment for money in

1 any amount for arrears of support and maintenance of any person in cases in which (i)  
2 the court has previously acquired personal jurisdiction over all necessary parties or a  
3 proceeding in which such jurisdiction has been obtained has been referred or transferred  
4 to the court by a circuit court or another juvenile and domestic relations district court, and  
5 (ii) payment of such money has been previously ordered by the court, a circuit court, or  
6 another juvenile and domestic relations district court. However, no such judgment shall be  
7 entered unless the motion of a party, a probation officer, a superintendent of public  
8 welfare, or the court's own motion, is duly served on the person against whom judgment is  
9 sought, in accordance with the applicable provisions of law relating to notice when  
10 proceedings are reopened. The motion shall contain a caption stating the name of the  
11 court, the title of the action, the names of all parties and the address of the party against  
12 whom judgment is sought, the amount of arrearage for which judgment is sought, and the  
13 date and time when such judgment will be sought. No support order may be retroactively  
14 modified, but may be modified with respect to any period during which there is a pending  
15 petition for modification, but only from the date that notice of such petition has been given  
16 to the responding party.

17 P. The judge or clerk of the court shall, upon written request of the obligee under a  
18 judgment entered pursuant to this section, certify and deliver an abstract of that judgment  
19 to the obligee or Department of Social Services.

20 Q. If the amount of the judgment does not exceed the jurisdictional limits of § 16.1-77  
21 (1), exclusive of interest and any attorneys' fees, an abstract of any such judgment entered  
22 pursuant to this section may be delivered to the clerk of the general district court of the  
23 same judicial district, and executions upon such judgment shall be issued by the clerk of  
24 such general district court.

25 R. Arrearages accumulated prior to July 1, 1976, shall also be subject to the provisions  
26 of this section.

27 S. In cases involving (i) the custody, visitation or support of a child arising under  
28 subdivision A 3 of § 16.1-241, (ii) spousal support arising under subdivision L of § 16.1-241  
29 or (iii) support, maintenance, care, and custody of a child or support and maintenance of a  
30 spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79,  
31 or (iv) motions to enforce administrative support orders entered pursuant to Chapter 13 of  
32 Title 63.1 (§ 63.1-249 et seq.), when the court finds that the respondent (i) has failed to  
33 perform or comply with a court order concerning the custody and visitation of a child or a  
34 court or administrative order concerning the support and maintenance of a child or a court  
35 order concerning the support and maintenance of a spouse, or (ii) under existing  
36 circumstances, is under a duty to render support or additional support to a child or pay  
37 the support and maintenance of a spouse, the court may order a payroll deduction as  
38 provided in § 20-79.1, or the giving of a recognizance as provided in § 20-114. If the court  
39 finds that the respondent has failed to perform or comply with such order, the court also  
40 may order the commitment of the person as provided in § 20-115 or the court may, in its  
41 discretion, impose a sentence of up to twelve months in jail, notwithstanding the provisions  
42 of §§ 16.1-69.24 and 18.2-458, relating to punishment for contempt. If the court finds that an  
43 employer, who is under a payroll deduction order pursuant to § 20-79.1, has failed to  
44 comply with such order after being given a reasonable opportunity to show cause why he  
45 failed to comply with such order, then the court may proceed to impose sanctions on the  
46 employer pursuant to subsection G of § 20-79.1.

47 T. In cases involving (i) the custody, visitation or support of a child arising under  
48 subdivision A 3 of § 16.1-241, (ii) spousal support arising under subdivision L of § 16.1-241  
49 or (iii) support, maintenance, care, and custody of a child or support and maintenance of a  
50 spouse transferred to the juvenile and domestic relations district court pursuant to § 20-79,  
51 the court may enter support orders in pendente lite proceedings, provided such proceedings  
52 shall not be ex parte.

53 § 16.1-292. Violation of court order by any person.—A. Any person violating an order of  
54 the juvenile court entered into pursuant to § 16.1-279 may be proceeded against (i) by an

1 order requiring the person to show cause why the order of the court entered into pursuant  
 2 to § 16.1-279 has not been complied with, or (ii) for contempt of court pursuant to §  
 3 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as otherwise  
 4 expressly provided herein, nothing in this chapter shall deprive the court of its power to  
 5 punish summarily for contempt for such acts as set forth in § 18.2-456, except that  
 6 confinement in the case of a juvenile shall be in a secure facility for juveniles rather than  
 7 in jail and shall not exceed a period of ten days for each offense.

8 B. Upon conviction of any party for contempt of court in failing or refusing to comply  
 9 with an order of a juvenile court for spousal support under § 16.1-279 M or child support  
 10 under § 16.1-279 F, the court may commit and sentence such party to confinement in a  
 11 jail, workhouse, city farm or work squad as provided in §§ 20-61 and 20-62, for a fixed or  
 12 indeterminate period or until the further order of the court. In no event, however, shall  
 13 such sentence be imposed for a period of more than twelve months. The sum or sums as  
 14 provided for in § 20-63 shall be paid as therein set forth, to be used for the support and  
 15 maintenance of the spouse or the child or children for whose benefit such order or decree  
 16 provided.

17 C. Notwithstanding the contempt power of the court, the court shall be limited in the  
 18 actions it may take with respect to a child violating the terms and conditions of an order  
 19 to those which the court could have taken at the time of the court's original disposition  
 20 pursuant to § 16.1-279, except as hereinafter provided. *However, such limitation shall not*  
 21 *be construed to deprive the court of its power to punish a child summarily for contempt*  
 22 *for acts set forth in § 18.2-456, other than acts of disobedience of the court's dispositional*  
 23 *order which are committed outside the presence of the court.*

24 D. In the event a child in need of services is found to have willfully and materially  
 25 violated for a second or subsequent time the lawful order of the court pursuant to §  
 26 16.1-279 C, the dispositional alternatives specified in subdivisions 5 and subdivision 6 of §  
 27 16.1-279 E shall be available to the court.

28 E. In the event a child in need of supervision is found to have willfully and materially  
 29 violated a lawful order of the court pursuant to § 16.1-279 C 1, the court may enter any of  
 30 the following orders of disposition:

- 31 1. ~~Impose a fine not to exceed \$500 upon such child;~~
- 32 2. Suspend the child's motor vehicle operator's license;
- 33 3. ~~2. Order any such child fourteen years of age or older to be (i) placed in a foster~~  
 34 *home, group home or other nonsecure residential facility, or, (ii) if the court finds that*  
 35 *such placement is not likely to meet the child's needs, that all other treatment options in*  
 36 *the community have been exhausted, and that secure placement is necessary in order to*  
 37 *meet the child's service needs, detained in a secure facility for a period of time not to*  
 38 *exceed ten thirty consecutive days for the first violation of a court order and, after a*  
 39 *separate hearing, for a period not to exceed twenty consecutive days for subsequent*  
 40 *violations of a court order. In no instance shall a juvenile be detained pursuant to this*  
 41 *subdivision for a total period exceeding thirty days for violation of any order of the court*  
 42 *arising out of the same petition. The court shall state in its order for detention the basis*  
 43 *for all findings required by this section. When any child is detained in a secure facility*  
 44 *pursuant to this section, the court shall direct the agency evaluating the child pursuant to*  
 45 *§ 16.1-279C1 to reconvene the interdisciplinary team participating in such evaluation as*  
 46 *promptly as possible to review its evaluation, develop further treatment plans as may be*  
 47 *appropriate and submit its report to the court for its determination as to further*  
 48 *treatment efforts either during or following the period the child is in secure detention. A*  
 49 *juvenile may only be detained pursuant to this section in a detention home or other secure*  
 50 *facility in compliance with standards established by the State Board. Standards for these*  
 51 *facilities shall provide for the separation of children in need of supervision from other*  
 52 *children detained in the same facility for delinquent offenses. Any order issued pursuant to*  
 53 *this subsection is a final order and is appealable to the circuit court as provided by law.*

54 F. Nothing in this section shall be construed to reclassify a child in need of services or

1 in need of supervision as a delinquent.

2 G. Any order issued pursuant to this section affecting the substantive rights of any  
3 individual shall be appealable to the circuit court within ten days after the entry thereof.

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## 1989 SESSION

LD5857455

## HOUSE BILL NO. 1910

Offered January 24, 1989

A BILL to amend the Code of Virginia by adding in Title 9 a chapter numbered 32, consisting of sections numbered 9-281 through 9-285, relating to Youth Services Commission.

Patrons—Dicks, Jones, J. C., Croshaw and Forehand; Senators: Gartlan and Lambert

Referred to the Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 9 a chapter numbered 32, consisting of sections numbered 9-281 through 9-285 as follows:

## CHAPTER 32.

## YOUTH SERVICES COMMISSION.

§ 9-281. *Commission created; purpose.*—There is hereby created the Youth Services Commission, hereinafter referred to as the Commission. The purpose of the Commission shall be, through the exercise of its powers and performance of its duties set forth in this chapter, to study and provide recommendations addressing the needs of and services to the Commonwealth's youth and their families. In so doing, it shall encourage the development of uniform policies and services to youth across the Commonwealth and provide a forum for continuing review and study of such services. In addition to its own proposals, the Commission shall coordinate the proposals and recommendations of all commissions and agencies as to legislation affecting youth.

§ 9-282. *Membership; terms; vacancies; chairman; expenses.*—The Commission shall be composed of fourteen members, six of whom shall be appointed by the Speaker of the House of Delegates from the membership thereof, four of whom shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate, and four of whom shall be appointed by the Governor from the Commonwealth at large. Of the initial appointments, one-half of the initial appointments made by each appointing authority shall be for a term of four years each and one-half of such appointments shall be for a term of two years each. Thereafter, all appointments shall be for a term of four years each. Vacancies shall be filled for the unexpired terms. Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish his membership on the Commission and the appointing authority who appointed such member shall make an appointment from his respective house to complete the term. The Commission shall elect its chairman annually. Members of the Commission shall receive compensation as provided in § 14.1-18 of the Code of Virginia and shall be paid their necessary expenses incurred in the performance of their duties. However, all such expense payments shall come from existing appropriations to the Youth Services Commission.

§ 9-283. *Powers and duties of the Commission.*—The Commission shall have the following powers and duties:

1. To undertake studies and to gather information and data in order to accomplish its purposes as set forth in § 9-281, and to formulate and present its recommendations to the Governor and the General Assembly.

2. At the direction or request of the legislature by concurrent resolution or of the Governor, or at the request of any department, board, bureau, commission, authority or other agency created by the Commonwealth or to which the Commonwealth is party, to study the operations, management, jurisdiction or powers of any such department, board, bureau, commission, authority or other agency which has responsibility for services to youth.

§ 9-284. *Executive director; staff; compensation.*—The Commission is authorized to appoint and employ and, at its pleasure, remove an executive director and such other

1 persons as it may deem necessary to assist it in carrying out its duties as set forth in this  
2 chapter. The Commission is authorized to determine the duties of such staff and to fix  
3 their salaries or compensation within the amounts appropriated therefor.

4 § 9-285. Cooperation of other state agencies.—The Commission may request and shall  
5 receive from every department, division, board, bureau, commission, authority or other  
6 agency created by this Commonwealth, or to which the Commonwealth is party, or from  
7 any political subdivision of the Commonwealth, cooperation and assistance in the  
8 performance of its duties.

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## 1989 SESSION

LD5622455

## HOUSE JOINT RESOLUTION NO. 414

Offered January 24, 1989

*Requesting the Secretaries of Health and Human Resources, Transportation and Public Safety, and Education to develop a plan for providing a minimum level of services for at-risk youth in each community and for funding such services.*

Patrons—Dicks, Jones, J. C., Croshaw and Forehand; Senators: Gartlan and Lambert

Referred to the Committee on Health, Welfare and Institutions

WHEREAS, the Joint Subcommittee Studying Children in Need of Services has reviewed during 1987 and 1988 the methods by which state and local agencies care for and manage children in need of services (CHINS), which include youth who are truant, incorrigible or who have run away; and

WHEREAS, the joint subcommittee has considered in the course of its study the development, implementation, coordination and application of resources for such children; and

WHEREAS, the Department of Social Services' Task Force on the Status of Older Children in Foster Care reported to the joint subcommittee that in 1986 older children who are CHINS or delinquents needed services almost twice as often as other children in their age group; and

WHEREAS, in spite of such findings, the study has identified pervasive problems in service availability and in coordination of service delivery among state, local, public and private agencies, with no service-delivery systems created specifically to address the problems of CHINS; and

WHEREAS, rural areas have the most serious program shortages, with approximately sixty percent of certain programs of the Division of Youth Services clustered around the Commonwealth's major urban areas; and

WHEREAS, uneven availability of services results not only from denser population in urban areas but from present funding mechanisms, which depend on the willingness and ability of local governing bodies to participate in the development and operation of programs; and

WHEREAS, while some communities in the Commonwealth provide a broad continuum of services to this population, other communities have identified shortages in assessment, outpatient, outreach, short-term and long-term and secure and nonsecure residential, mediation, individual and family counseling, home-based, educational, health and staff-training services; and

WHEREAS, the joint subcommittee has recommended that each community in the Commonwealth provide an interdisciplinary approach to serving children in need of supervision and other at-risk youth but recognizes that such an approach cannot be applied statewide without the provision of a significant amount of new funds both immediately and to support its long-term effect; and

WHEREAS, lack of uniformly available services statewide results in a child's opportunities for solving problems and reaching productive adulthood being dependent on where he resides in the Commonwealth; and

WHEREAS, the joint subcommittee agrees that in order for each community in the Commonwealth to provide for CHINS and other clients who need services, an organized effort is needed statewide to establish a minimum level of services for these clients; and

WHEREAS, provision of adequate services statewide is a responsibility of both the public and private sectors and represents a major funding commitment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Secretaries of Health and Human Resources, Transportation and Public Safety, and Education shall determine what minimum level of services is required in each community to adequately serve at-risk youth and shall develop a plan for providing and funding such minimum level

1 of services. These efforts shall address specifically the long-term fiscal impact of the  
 2 interdisciplinary team approach to serving children in need of supervision, recommended  
 3 by the Joint Subcommittee Studying Children in Need of Services in its 1989 report. Each  
 4 secretariat shall ensure that the appropriate agencies within its authority and that  
 5 appropriate service providers and other experts collaborate as necessary in the  
 6 development of such plan.

7 The Secretaries shall report their findings by November 1, 1989, to the Governor and  
 8 the General Assembly as provided in the procedures of the Division of Legislative  
 9 Automated Systems for processing legislative documents.

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**1989 SESSION**

LD5666455

**HOUSE JOINT RESOLUTION NO. 415**

Offered January 24, 1989

*Requesting that the Secretary of Education promulgate specific policies for early identification and treatment of at-risk youth.*

Patrons—Dicks, Jones, J. C., Croshaw and Forehand; Senators: Gartlan and Lambert

Referred to the Committee on Education

WHEREAS, the Joint Subcommittee Studying Children in Need of Services has reviewed during 1987 and 1988 the methods by which state and local agencies care for and manage children in need of services (CHINS), which include youth who are truant, incorrigible or who have run away; and

WHEREAS, the joint subcommittee has considered in the course of its study the development, implementation, coordination and application of resources for such children; and

WHEREAS, the joint subcommittee has coordinated its efforts with those of the Joint Subcommittee Studying School Dropouts, learning from that group's findings that nationally over half of school dropouts had problems of truancy and excessive absences; and

WHEREAS, that study found that school dropouts have higher unemployment rates and lower incomes than those who finish high school and thus the consequences of dropping out of school affect the individual child as well as the larger community; and

WHEREAS, the Joint Subcommittee Studying Children in Need of Services conducted its own survey of service providers in seven representative communities to analyze the service system and the children within it; and

WHEREAS, the survey indicated that the Commonwealth's schools have no consistent statewide policy for intervention with truants, with some schools and school districts addressing the problem actively and successfully and others serving truants inadequately; and

WHEREAS, while the problems of truancy and the dropout rate are complex and require the cooperation of the schools, courts and other service agencies, the joint subcommittee's survey also showed an absence of an interagency approach to working with these at-risk youth in communities, with schools most notably absent from a team approach; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Secretary of Education promulgate specific policies and guidelines to provide for early identification and treatment of truants, dropouts and at-risk youth in school divisions across the Commonwealth. Such policy development shall include consideration of use of in-school resources, including individual and family counseling, special education and alternative education, instructional and classroom modifications, teacher consultation, administrative and behavior management, and health services. In addition, policy development shall include consideration of use of multidisciplinary teams to assess and treat the child according to an individual plan whenever in-school management is unsuccessful.

The Secretary shall report his findings by November 1, 1989, to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing legislative documents.

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MODEL PROGRAMS

The joint subcommittee learned of a number of programs both within and outside the Commonwealth which provide useful models for replication in developing CHINS programs. Several of these are described below.

North Carolina

North Carolina has developed and is funding three pilot programs for this population. All are tightly controlled programs which define chronic status offenders as children who have been before the judge three or more times for status offenses or have come to the attention of an authority such as the school superintendent on three or more separate episodes of truancy. In the four years the programs have been funded, only two children have had to return to court with subsequent problems.

In-home Family Services delivers intensive services to families in their homes over a six to eight week period. In each of the first several weeks, the worker spends 30-40 hours in the home assessing the family's problems and strengths. The last weeks involve only about 5-10 hours per week in the home. Throughout, the worker makes a network of community resources available. The program is used only for those children in imminent danger of removal from the home. Removal has been avoided in about 98% of the cases through this program.

The Grimes Alternative Program is a school program which incorporates In-home Family Services. A teacher, aide and family therapist staff the program for 12 children. The therapist works with the family weekly. Funds go to a private non-profit agency which hires the staff; the teacher and aide, however, are a joint project between the agency and the school system, allowing the teacher to use education employment benefits. The twelve chronic status offenders participating in the first year had a total of 511 unexcused absences; during the first year of the project, they had only 15 such absences. All passed to the next grade and improved their math and reading skills. Cost analysis indicates that the program costs only about \$600 per pupil more than educational costs for other students.

The Detention Prevention Program is designed to remove runaways from detention centers in less than the 72-hour maximum time authorized by law. The program involves in-home family assessment and family therapy; families must agree to participate in therapy before a runaway petition will be accepted by the court.

## West Virginia

Youth Service Systems, Inc., a regional comprehensive child-care agency, is headquartered in Wheeling, West Virginia. The program serves acute care, crisis youth. Services include short-term emergency foster care, long-term foster care, outpatient day services which include schooling, an independent living program, and a secure juvenile detention center. Most of the children served are CHINS. Of 5387 children served, only 178 have been subsequently incarcerated as adults. The West Virginia program is 80% funded by direct contract with the state. There is only one state-run child-care facility in the state; the rest are run privately by state contract. Programs like this one serve the needs of youth in West Virginia, which does not allow the secure detention of status offenders nor does it have a valid-court-order provision. A state advisory group worked to develop such programs statewide, determining a need for emergency-care shelters, independent living programs, and educational services adapted to crisis-care youth which provide financial incentives to the educational system by allowing children to be maintained on school roles even though they are in the agency's school program.

## Lynchburg, Virginia

The Community Coordination Network is a recently established component of the Lynchburg program, which is based on local interagency cooperation and coordination. The network is a web of human service agencies and professionals, expanding on the local mental health prescription team. The network has three components. The Lynchburg Interagency Consortium includes the directors of court services, social services, mental health and special education and residential care, meeting biweekly to address interagency issues and look at state consortium fund applications. The Community Assessment Teams include six rotating multi-disciplinary teams meeting weekly to staff individual cases at the request of any participating agency. The Home-based Resource Model is a home-based service program which meets weekly. The model provides treatment staff availability, quick response, and interagency multi-disciplinary cooperation.

## Charlottesville, Virginia

Outreach Counseling Services, Inc., provides home-based family-focused services to troubled youth and their families. It serves about 100 families per year with funding from social service and corrections agencies, local funding and endowments.

Project Soar, jointly administered by Outreach Counseling Services, Inc., and the Charlottesville Youth Service Center, is funded by the Youth Development and Delinquency Prevention Act. This pilot project serves youths who are at risk of delinquency and dropping out of school. The project provides intensive in-home family-focused services to these youth. Data appears to



show that the program succeeded in lowering the drop-out rate for these youth, in improving academic attendance, performance and behavior and in raising self-esteem, at a cost of about \$1500 per child.

### Roanoke, Virginia

Lutheran Family Services provides intensive in-home services 24 hours a day to families at risk of separation because of abuse or neglect. The services were developed in response to P.L.96-272, which mandates reasonable efforts to prevent removal of children from the home. The program uses two direct service staff--a therapist and a homemaker/educator--who work with key local agencies. The program succeeds because of its pro-family orientation, small caseloads of no more than six to seven families, intervention within 90-120 days, community interagency coordination, and an immediate response to crisis. The program offers some financial help to families when needed. Over five years, the Wythe County team has worked with 77 families with 181 children at risk of entering out-of-home care. Ninety-two percent of these children stayed in their homes. In Bedford County, it is estimated that the program has saved \$50,000 per year, comparable in other counties. The model can work for CHINS and abused, neglected, emotionally disturbed and predelinquent children.

### Virginia

Volunteer Emergency Foster Care assists court service units and social service agencies in working with children, many of whom are CHINS. The program was an interagency effort begun with the Department of Social Services, the Department of Corrections, the Virginia Council of Churches, and other private groups ten years ago. Short-term crisis and respite care is provided by 350 volunteer foster families, trained by court services units and departments of social services. The program serves abandoned, truant, runaway, incorrigible and abuse/neglected children. The program has served over 3000 children over ten years and has saved an estimated \$800,000 in public funds. Fifty-five localities participate in VEFC, which is expanding into Maryland, Tennessee and North Carolina.

Centerville Group Home provides nonsecure residential treatment for up to thirteen youth between the ages of thirteen and seventeen who have been committed by the court to the department of social services as CHINS or as delinquents who have committed minor offenses. Residents stay for periods of three months to a year or longer. The home develops an individualized contract for each child which sets long-term individualized goals. The facility provides individual and family counseling, independent living and self-esteem groups, and a one-year outreach contract to follow youths after discharge. The home uses community health, mental health, and social services. All treatment needs are met either through in-house or community services. Youth leave the home to return to their homes, to enter foster homes, or to participate in an independent living program.

