



# Virginia State Crime Commission

HJR 113

Virginia's Juvenile Justice System

December 9, 2008

# Overview

- Study Mandate
- Policy Surveys
- Possible Legislation



# Study Mandate



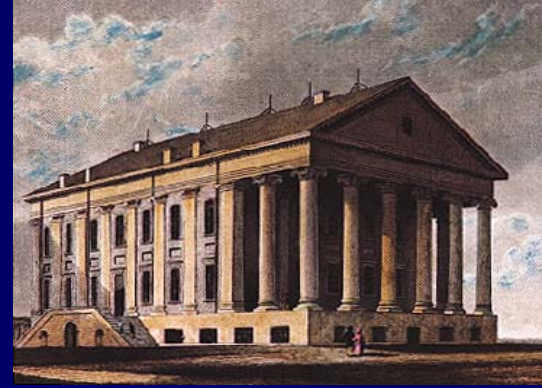
- House Joint Resolutions 136 (2006) and 113 (2008) patroned by Delegate Moran, directed the Crime Commission to study Virginia's juvenile justice system.
  
- The resolutions specifically directed focus on:
  - Recidivism;
  - Disproportionate minority contact;
  - Improving the quality of, and access to, legal counsel;
  - Accountability in the courts;
  - Diversion;
  - School issues and truancy;
  - Mental health services;
  - Rehabilitation and re-entry methods; and,
  - Review of Title 16.1.

# Study Mandate



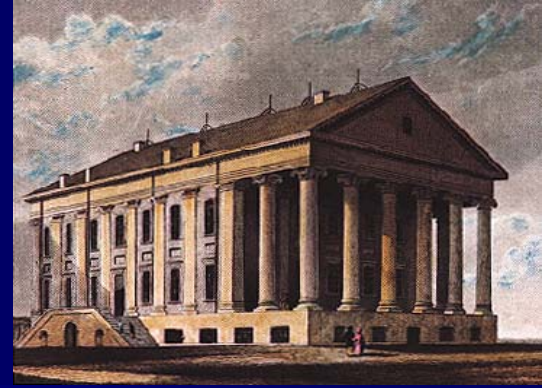
- At the October 14<sup>th</sup> meeting, staff was requested to:
  - Send letters to agencies that best practices had been identified;
  - Combine statutes in Chapter 11 of Title 16.1 in need of clarification;
  - Omit policy options with significant fiscal implications; and,
  - Review JDR Judge surveys to determine support on remaining policy issues.

# Policy Surveys



- Staff disseminated brief surveys regarding attitudes towards policy options. Response rates are as follows:
  - 56% (14 of 25) Chief Public Defenders;
  - 30% (46 of 153) Circuit Court Judges;
  - 48% (57 of 120) Commonwealth's Attorneys;
  - 86% (30 of 35) Court Service Unit Directors;
  - 40% (45 of 113) JDR Court Judges; and,
  - The Department of Juvenile Justice.

# Policy Surveys



- Policy surveys asked whether respondents “supported,” “did not support,” or “supported with revisions” on each of the following policy issues:
  - Transfer;
  - Pre-trial diversion;
  - Juvenile records;
  - Post-D detention;
  - Juvenile commitments; and,
  - Title 16.1.
  
- *Note: The results presented only represent responses in full support of each policy.*

# Policy Issue #1: Transfer



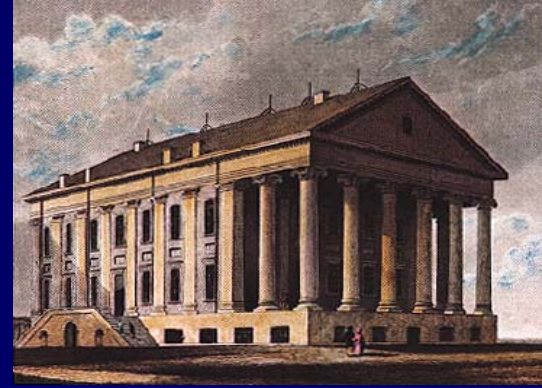
- Allow JDR Judges sole discretion to transfer, with the exception of mandatory transfer crimes under subsection B.
  - 79% (11 of 14) of Chief Public Defenders;
  - 73% (32 of 44) of Circuit Court Judges;
  - 26% (15 of 57) of Commonwealth's Attorneys;
  - 87% (26 of 30) of Court Service Unit Directors;
  - 80% (36 of 45) JDR Court Judges; and,
  - The Department of Juvenile Justice does **not** support.

# Policy Issue #2: Transfer



- Allow Circuit Court judges the ability to send subsection C transfers back to JDR Court for adjudication (reverse the transfer).
  - 93% (13 of 14) of Chief Public Defenders;
  - 84% (37 of 44) of Circuit Court Judges;
  - 19% (11 of 57) of Commonwealth's Attorneys;
  - 77% (23 of 30) of Court Service Unit Directors;
  - 53% (24 of 45) of JDR Court Judges; and,
  - The Department of Juvenile Justice does support.

# Policy Issue #3: Transfer



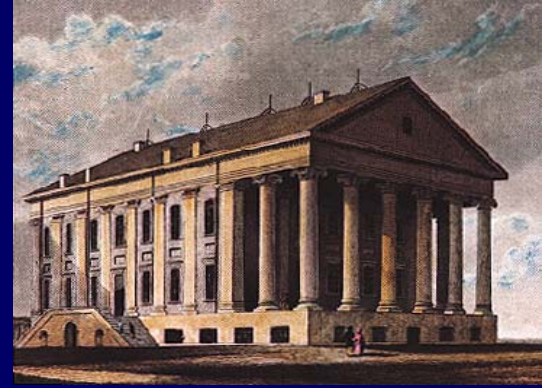
- Allow for a device to restore a juvenile's status (currently, once transferred and convicted, juvenile is always considered an adult).
  - 93% (13 of 14) of Chief Public Defenders;
  - 64% (28 of 44) of Circuit Court Judges;
  - 7% (4 of 57) of Commonwealth's Attorneys;
  - 67% (20 of 30) of Court Service Unit Directors;
  - 44% (20 of 45) of JDR Court Judges; and,
  - The Department of Juvenile Justice supports policy with revisions.

# Policy Issue #4: Transfer



- Remove certain crimes that are eligible for transfer in subsection C.
  - 93% (13 of 14) of Chief Public Defenders;
  - 50% (22 of 44) of Circuit Court Judges;
  - 7% (4 of 57) of Commonwealth's Attorneys;
  - 43% (13 of 30) of Court Service Unit Directors;
  - 40% (18 of 45) of JDR Court Judges; and,
  - The Department of Juvenile Justice does **not** support.

# Policy Issue #4 (con't): Transfer



- 93% (13 of 14) of Chief Public Defenders supported removing these crimes from Subsection C:
  - Felonious injury by mob (12)
  - Adulteration of products (11)
  - Abduction (11)
  - Malicious wounding (11)
  - Malicious wounding law enforcement officer (10)
  - Felonious poisoning (10)
  - Object sexual penetration (8)
  - Forcible sodomy (7)
  - Robbery (5)
  - Carjacking (5)
  - Rape (4)
  - Felony homicide (2)

# Policy Issue #4 (con't): Transfer



- 50% (22 of 44) of Circuit Court Judges supported removing these crimes from Subsection C:
  - Adulteration of products (11)
  - Felonious injury by mob (4)
  - Abduction (3)
  - Malicious wounding (3)
  - Malicious wounding law enforcement officer (3)
  - Carjacking (2)
  - Robbery (2)
  - Forcible sodomy (2)
  - Object sexual penetration (2)

# Policy Issue #4 (con't): Transfer



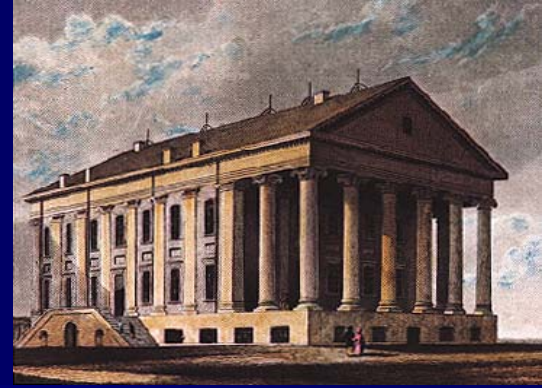
- 7% (4 of 57) of Commonwealth's Attorneys supported removing these crimes from Subsection C:
  - Adulteration of products (5)
  - Felonious injury by mob (1)

# Policy Issue #4 (con't): Transfer



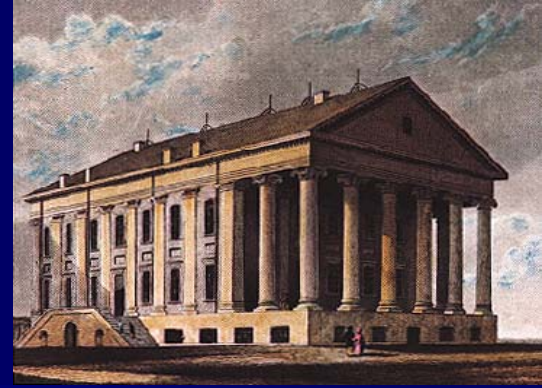
- 43% (13 of 30) of Court Service Unit Directors supported removing these crimes from Subsection C:
  - Adulteration of products (11)
  - Robbery (6)
  - Felonious injury by mob (5)
  - Felonious poisoning (5)
  - Malicious wounding (4)
  - Abduction (3)
  - Carjacking (3)
  - Forcible sodomy (3)
  - Object sexual penetration (3)
  - Rape (3)
  - Malicious wounding law enforcement officer (2)
  - Felony homicide (2)

# Policy Issue #4 (con't): Transfer



- 40% (18 of 45) of JDR Court Judges supported removing these crimes from Subsection C:
  - Adulteration of products (13)
  - Malicious wounding (9)
  - Object sexual penetration (7)
  - Abduction (5)
  - Forcible sodomy (5)
  - Robbery (4)
  - Felonious poisoning (4)
  - Rape (3)
  - Malicious wounding law enforcement officer (3)
  - Felonious injury by mob (3)
  - Carjacking (2)
  - Felony homicide (2)

# Policy Issue #5: Pre-trial Diversion



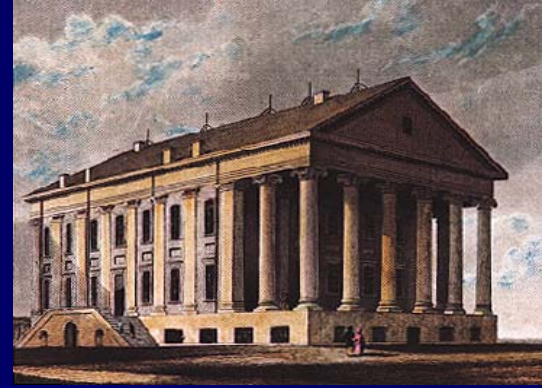
- Allow for more than one pre-trial diversion opportunity for juveniles charged with felonies.
  - 93% (13 of 14) of Chief Public Defenders;
  - 66% (29 of 44) of Circuit Court Judges;
  - 16% (9 of 57) of Commonwealth's Attorneys;
  - 77% (23 of 30) of Court Service Unit Directors;
  - 42% (19 of 45) of JDR Court Judges; and,
  - The Department of Juvenile Justice supports policy with revisions.

# Policy Issue #6: Juvenile Records



- Require that the Court retain records only for violent felonies.
  - 93% (13 of 14) of Chief Public Defenders;
  - 50% (21 of 42) of Circuit Court Judges;
  - 11% (6 of 56) of Commonwealth's Attorneys;
  - 66% (19 of 29) of Court Service Unit Directors;
  - 59% (26 of 44) of JDR Court Judges; and,
  - The Department of Juvenile Justice does **not** support.

# Policy Issue #7: Post-D Detention



- Limit Post-D detentions to juveniles adjudicated delinquent of Class 1 misdemeanors and felonies (i.e. Class 2 misdemeanor would no longer be eligible for Post-D detention).
  - 71% (10 of 14) of Chief Public Defenders;
  - 67% (28 of 42) of Circuit Court Judges;
  - 42% (23 of 55) of Commonwealth's Attorneys;
  - 77% (23 of 30) of Court Service Unit Directors;
  - 57% (25 of 44) of JDR Court Judges; and,
  - The Department of Juvenile Justice does support.

# Policy Issue #8: Juvenile Commitments



- Change § 16.1-278.7, so that prior time in DOC would make a juvenile ineligible for commitment to DJJ. As such, a juvenile would return to DOC for future serious offenses.
  - 36% (5 of 14) of Chief Public Defenders;
  - 86% (36 of 42) of Circuit Court Judges;
  - 82% (45 of 55) of Commonwealth's Attorneys;
  - 90% (26 of 29) of Court Service Unit Directors;
  - 77% (34 of 44) of JDR Court Judges; and,
  - The Department of Juvenile Justice supports with revisions.

# Policy Issue #9:

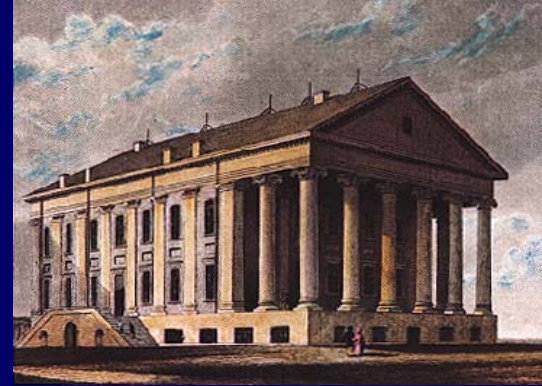
## Title 16.1



- Conduct a complete rewrite of Chapter 11 of Title 16.1.
  - 64% (9 of 14) of Chief Public Defenders;
  - 62% (26 of 42) of Circuit Court Judges;
  - 22% (12 of 54) of Commonwealth's Attorneys;
  - 52% (15 of 29) of Court Service Unit Directors;
  - 55% (24 of 44) of JDR Court Judges; and,
  - The Department of Juvenile Justice supports with revisions.

# Possible Legislation:

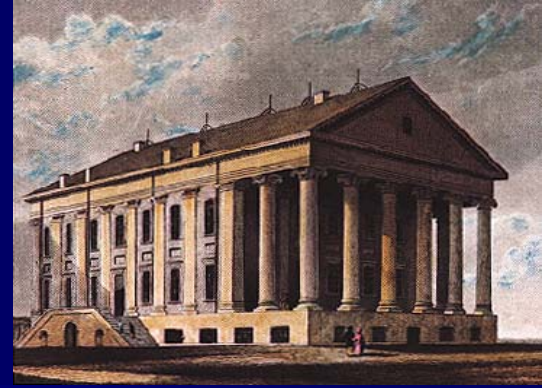
## Title 16.1



- Amendments to combine and clarify certain statutes in Chapter 11:
  - All CHINSup sections placed next to each other to create a new article;
  - Make clear that the penalties for juvenile under age possession of alcohol are the ones found in § 16.1; the penalties in § 4.1 only apply to adults under the age of 21;
  - Clarify permission to tape record hearings in JDR Court in § 16.1-69.35:2;
  - Add “photograph” to § 16.1-237(F) to clarify that photos are part of the working file of probation officers;
  - Allow GALs of juveniles to file a CHINSup petition on behalf of the juvenile;

# Possible Legislation:

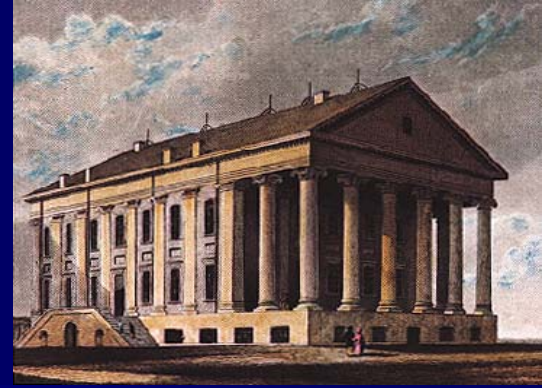
## Title 16.1 (cont.)



- Clarify unlimited pre-trial diversions for misdemeanor offenses;
- Repeal boot camps;
- Move protective order statute so that all protective order statutes are next to each other;
- Move exceptions to confidentiality to § 16.1-305.1 so that all juvenile records sections are closer together; and,
- Add “petition” to § 18.2-57.2(B) to clarify that juveniles can also be charged for felony domestic assault.

# Possible Legislation:

## Title 16.1 (cont.)



- The titles of the statutes dealing with confidentiality of juvenile records are confusing (§§ 16.1-300, 16.1-301, 16.1-305, 16.1-306, 16.1-309.1).
- Because the titles are not law, this is best handled by a letter to the Code Commission requesting that the word “juvenile” be added to each of them.

# Possible Legislation: Appeals to Circuit Court



- Inconsistency in § 16.1-298.
- Some penalties are suspended while juveniles are awaiting appeal (fines, restitution, suspension of driver's license, traffic violations, etc.) and others are not (post-dispositional detention, commitment as a serious offender, suspension of driver's license, and participation in gang program).
- **Policy Options:**
  1. Amend statute so that no penalties are suspended pending appeal; or,
  2. Amend statute so that all penalties are suspended pending appeal.

# Discussion