**Juvenile Criminal Cases… a True “Issue Spotting” Adventure**

**The Hon. Timothy Quick, Chief Judge**

**Richard Edgington, Assistant Public Defender**

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Fact Pattern: Taylor Smith is a 16-year-old that lives in Virginia Beach. He attends a local High School and is in the 11th grade. Taylor lives with his Grandparents along with his siblings (sister (8) and brother (13)). Last year, Taylor and his siblings were removed from their parents’ home and placed in foster care when his father went to jail, and his mother died from an overdose. After the removal, his grandparents got custody. Taylor has a mild learning disability and may be on the spectrum. Taylor also has an issue with sexual boundaries and may have been abused while in his parents’ care.

One afternoon, Taylor’s Grandmother opens the door to Taylor’s room and finds Taylor fondling the buttocks of his unclothed sister. The Grandmother freaks out and charges at Taylor. Taylor runs out of the house and Grandmother calls 911. On the way out of the house, Taylor grabs a bottle of vodka and his Grandfather’s semi-automatic handgun that was sitting open and obvious on a shelf in the garage. Taylor runs through the woods behind the house and ultimately heads down Virginia Beach Boulevard chugging the vodka as he runs.

Taylor spies a used car dealership up ahead and notices an attendant opening the door to a car that is running. The used car salesman leaves the car door open and appears to be placing a temporary tag on the back of the car. Taylor seizes the opportunity and runs to the car, jumps in the driver’s seat, and is about to put the car in gear when the attendant yells. Taylor leans out the door with the gun in his hand and the attendant backs off. Taylor takes off in the car, driving erratically all the way to the interstate. Ultimately, Taylor brings the car to a slow roll and jumps out of the car on I-264, and hops the guardrail. Taylor is located by the police hiding in a shed behind a church. He has a strong odor of alcohol, glassy eyes, and is unsteady on his feet. He blows a .04 BAC on the PBT. The police confiscate the gun and also find a bottle of pills on his person. The pills are later determined to be fentanyl. Taylor is taken to the Juvenile Detention Center (JDC) after refusing to take a breath test at the station.

JDC and Court Service Unit (CSU) staff repeatedly try to call Taylor’s Grandparents, but they fail to respond. When they do finally respond, Taylor’s Grandmother says his Grandfather is in the hospital after suffering a stroke and is not expected to live. Grandmother says Taylor cannot come home and not to call her back until his trial when she will gladly testify as to what she saw him do to his sister.

**ISSUE SPOTTING….**

1. Possible Charges:
	1. Aggravated Sexual Battery (Virginia Code § 18.2-67.3)
	2. Grand Larceny of An Automobile (Virginia Code §18.2-95)
	3. Car Jacking (Virginia Code §18.2-58.1)
	4. Robbery (Virginia Code §18.2-58)
	5. Possession of Certain Firearm by a Minor (Virginia Code §18.2-308.7)
	6. Use of a Firearm During Commission of a Felony (Virginia Code §18.2-53.1)
	7. Possess Weapon while possessing certain substances (Virginia Code §18.2-308.4)
	8. Brandishing (Virginia Code §18.2-282)
	9. Under 21 Driving after Consumption of Alcohol (Virginia Code §18.2-266.1)
	10. Driving Under the Influence (Virginia Code §18.2-266)
	11. Refusal (Virginia Code §18.2-268.3)
	12. Possession of Controlled Substances (Virginia Code §18.2.250)
	13. Trespass (Virginia Code §18.2-119)
	14. Felony Child Neglect (Virginia Code §18.2-371.1C1)
2. Issues
	1. Competency
		1. Virginia Code §16.1-356 - §16.1-361
	2. Appointment of Guardian ad Litem
		1. 16.1-266
	3. Certification v. Transfer
		1. Virginia Code §§16.1-248.1,16.1-263,16.1-264, 16.1-269.1, 16.1-269.3
	4. Secure Detention status
		1. Virginia Code §16.1-248.1
	5. Inability to Return Home/Unresponsive Custodian/Possible Abandonment
		1. Virginia Code §16.1-228, §16.1-251
	6. Need for Trauma Informed Services / Adverse Childhood Experiences
		1. Virginia Code §16.1-278 *et. seq.*

**Code Sections at your fingertips…..**

<https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-67.3/>

[https://law.lis.virginia.gov/vacode/title18.2/chapter5/section18.2-95/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter5%2Fsection18.2-95%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506048411%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=WQSddWnttNJV8T8efFcmJxIBSiT39FOHBNDpBK1qkuI%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-58/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter4%2Fsection18.2-58%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506055934%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=E9BDpNqRthyYkHbKMZFBFG1d2MM7xrhSlcwgX5ckB2U%3D&reserved=0)

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[https://law.lis.virginia.gov/vacode/title18.2/chapter7/section18.2-308.7/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter7%2Fsection18.2-308.7%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506068331%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=jVzuX82X%2BjWYtN5e2P42lvuoMndFT30iOde0nA0F6Do%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-53.1/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter4%2Fsection18.2-53.1%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506074449%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=ZVh2iqqjZzv465duyhWPTE9VNkXxVHBIGewige6CY%2Bg%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title18.2/chapter7/section18.2-308.4/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter7%2Fsection18.2-308.4%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506080494%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=z%2BqRTpTo6xR89M29y3sIniAX4nkPKA0nKT6H7iXCX0Y%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title18.2/chapter7/section18.2-282/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter7%2Fsection18.2-282%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506086526%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=2wj%2FqwVH1Mp14YcCj%2BlIo0MoaUU99sP4fm5oh9mLxUM%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title18.2/chapter7/section18.2-266.1/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle18.2%2Fchapter7%2Fsection18.2-266.1%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506092566%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=iVLVe63Mxj1GMP1zyKrCimN44ahkpT7OvnFJ325r5oc%3D&reserved=0)

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[https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-266/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle16.1%2Fchapter11%2Fsection16.1-266%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506170089%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=5dF2%2FBPEF%2F%2BxgqxAStpAJqyNyWVxJVF%2BkAot%2BCWQWg0%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-248.1/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle16.1%2Fchapter11%2Fsection16.1-248.1%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506176009%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=OX4XoWjOSvH0AhheChZeOgHkKxk3JXPM0FTBLpdgVFA%3D&reserved=0)

[https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-263/](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flaw.lis.virginia.gov%2Fvacode%2Ftitle16.1%2Fchapter11%2Fsection16.1-263%2F&data=05%7C02%7CCRCunnin%40vbgov.com%7C520ea786dc9a48ec2da308dcd10e497d%7C87767a669f6e49f784d149f49be494e7%7C0%7C0%7C638615106506181917%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=%2BiydqxJxVgqEmNqkyIQbhrjdxdMnD%2FXiolHY9iUz2tw%3D&reserved=0)