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HOUSE BILL NO. 1327

Offered January 16, 2026

A BILL to amend and reenact §§ 16.1-228, 16.1-229.1, 16.1-251, 16.1-252, 16.1-277.01, 16.1-277.02, 16.1-278.2, 16.1-278.3, 16.1-283, and 63.2-100 of the Code of Virginia, relating to child dependency cases; court procedures; relatives and fictive kin.

Patron—Tata

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-229.1, 16.1-251, 16.1-252, 16.1-277.01, 16.1-277.02, 16.1-278.2, 16.1-278.3, 16.1-283, and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

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

"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, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

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. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

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

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

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;

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

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

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an

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attended emergency medical services agency that employs emergency medical services personnel, or (iii) a newborn safety device located at and operated by such hospital or emergency medical services agency. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"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 has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a delinquent act that would be a felony if committed by an adult.

"Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

"Child in need of services" means (i) a child whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical safety of the child; (ii) a child who remains away from or deserts or abandons his family or lawful custodian during one occasion and is demonstratively at risk of coercion, exploitation, abuse, or manipulation or has been lured from his parent or lawful custodian by means of trickery or misrepresentation or under false pretenses; or (iii) a child under the age of 14 whose behavior, conduct, or condition presents or results in a serious threat to the well-being and physical safety of another person; 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 these provisions, (a) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person; (b) the child or his family is in need of treatment, rehabilitation, or services not presently being received; and (c) the intervention of the court is essential to provide the treatment, rehabilitation, or services needed by the child or his 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, (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, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion 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.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"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 (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of § 18.2-308.7, 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 eighteenth birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice 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.

"Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places

one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not such spouse resides in the same home with the person; (ii) the person's former spouse, whether or not such person resides in the same home with the person; (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents, and grandchildren, regardless of whether such persons reside in the same home with the person; (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law who reside in the same home with the person; (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time; (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person; or (vii) an individual who is a legal custodian of a juvenile.

"Fictive kin" means persons who are not related to a child by blood, *marriage*, or adoption but have an established *and meaningful* relationship with the child or his family. *"Fictive kin" does not include current or former foster parents of the child.*

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.

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

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

"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, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"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 (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine 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 or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 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 reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. 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.

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

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, seven days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"Relative" means an adult who is related to the child by blood, marriage, or adoption.

"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.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that 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.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

§ 16.1-229.1. Removal of a child; names and contact information of relatives.

In any proceeding held pursuant to this chapter in which a child is removed from his home, the court may order the parents or guardians of such child to provide the names and contact information for all persons with a legitimate interest relatives to the local department of social services.

§ 16.1-251. Emergency removal order.

A. A child may be taken into immediate custody and placed in shelter care pursuant to an emergency removal order in cases in which the child is alleged to have been abused or neglected. Such order may be issued ex parte by the court upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

If the petitioner fails to obtain an emergency removal order within four hours of taking custody of the child, the affidavit or sworn testimony before the judge or intake officer shall state the reasons therefor.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

B. Whenever a child is taken into immediate custody pursuant to an emergency removal order, a hearing shall be held in accordance with § 16.1-252 as soon as practicable, but in no event later than five business days after the removal of the child.

C. In the emergency removal order the court shall give consideration to temporary placement of the child with a ~~person with a legitimate interest~~ *relative or fictive kin* under the supervision of the local department of social services, until such time as the hearing in accordance with § 16.1-252 is held. *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is contrary to the best interests of the child.*

D. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

§ 16.1-252. Preliminary removal order; hearing.

A. A preliminary removal order in cases in which a child is alleged to have been abused or neglected may be issued by the court after a hearing wherein the court finds that reasonable efforts have been made to prevent removal of the child from his home. The hearing shall be in the nature of a preliminary hearing rather than a final determination of custody.

B. Prior to the removal hearing, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she is 12 years of age or older. If notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot be given despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents, guardian, legal custodian or other person standing in loco parentis shall be afforded a later hearing on their motion regarding a continuation of the summary removal order. The notice provided herein shall include (i) the time, date and place for the hearing; (ii) a specific statement of the factual circumstances which allegedly necessitate removal of the child; and (iii) notice that child support will be considered if a determination is made that the child must be removed from the home.

C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

D. At the removal hearing the child and his parent, guardian, legal custodian or other person standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf. If the child was 14 years of age or under on the date of the alleged offense and is 16 or under at the time of the hearing, the child's attorney or guardian ad litem, or if the child

has been committed to the custody of the Department of Social Services, the local department of social services, may apply for an order from the court that the child's testimony be taken in a room outside the courtroom and be televised by two-way closed-circuit television. The provisions of § 63.2-1521 shall apply, mutatis mutandis, to the use of two-way closed-circuit television except that the person seeking the order shall apply for the order at least 48 hours before the hearing, unless the court for good cause shown allows the application to be made at a later time.

E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning party or agency must prove:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irreparable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition; and

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably and adequately protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

F. If the court determines that pursuant to subsection E hereof the removal of the child is proper, the court shall:

1. Order that the child be placed in the temporary care and custody of a suitable person, subject to the provisions of subsection F1 and under the supervision of the local department of social services, with consideration being given to placement in the temporary care and custody of a ~~person with a legitimate interest~~ *relative or fictive kin* until such time as the court enters an order of disposition pursuant to § 16.1-278.2, or, if such placement is not available, in the care and custody of a suitable agency;

2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal custodian or other person standing in loco parentis, and between the child and his siblings, if such visitation would not endanger the child's life or health; and

3. Order that the parent or other legally obligated person pay child support pursuant to § 16.1-290.

In addition, the court may enter a preliminary protective order pursuant to § 16.1-253 imposing requirements and conditions as specified in that section which the court deems appropriate for protection of the welfare of the child.

F1. Prior to the entry of an order pursuant to subsection F transferring temporary custody of the child to a ~~person with a legitimate interest~~ *relative or fictive kin*, the court shall consider whether such person is one

who (i) is willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is willing and has the ability to protect the child from abuse and neglect. The court's order transferring temporary custody to a ~~person with a legitimate interest relative or fictive kin~~ should provide for compliance with any preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-253; initiation and completion of the investigation as directed by the court and court review of the child's placement required in accordance with the provisions of § 16.1-278.2; and, as appropriate, ongoing provision of social services to the child and the temporary custodian. *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is contrary to the best interests of the child.*

G. At the conclusion of the preliminary removal order hearing, the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary removal hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the preliminary removal order hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The hearing shall be held and an order may be entered, although a party to the preliminary removal order hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

The preliminary removal order and any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

H. If the preliminary removal order includes a finding of abuse or neglect and the child is removed from his home or a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. The dispositional hearing shall be scheduled at the time of the preliminary removal order hearing and shall be held within 60 days of the preliminary removal order hearing. If an adjudicatory hearing is requested pursuant to subsection G, the dispositional hearing shall nonetheless be scheduled at the initial preliminary removal order hearing. All parties present at the preliminary removal order hearing shall be given notice of the date scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

I. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

J. Violation of any order issued pursuant to this section shall constitute contempt of court.

§ 16.1-277.01. Approval of entrustment agreement.

A. In any case in which a child has been entrusted pursuant to § 63.2-903 or 63.2-1817 to the local board of social services or to a child welfare agency, a petition for approval of the entrustment agreement by the board or agency:

1. Shall be filed within a reasonable period of time, no later than 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to the caretaker from whom he was entrusted within that period;

2. Shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and

3. May be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

The board or agency shall file a foster care plan pursuant to § 16.1-281 to be heard with any petition for approval of an entrustment agreement.

B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within 45 days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3, except where an order of publication has been ordered by the court, in which case the hearing shall be held within 75 days of the filing of the petition. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The local board of social services or child welfare agency;
2. The child, if he is 12 years of age or older;
3. The guardian ad litem for the child; and

4. The child's parents, guardian, legal custodian or other person standing in loco parentis to the child. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. A birth father shall be given notice of the proceedings if he is an acknowledged father pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202, or has registered with the Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.). An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. Failure to register with the Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 of Title 63.2 shall be evidence that the identity of the father is not reasonably ascertainable. The hearing shall be held and an order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, when a petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, a summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264. The remaining parent's parental rights may be terminated even though that parent has not entered into an entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best interest of the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to § 8.01-296 or 8.01-320; (iii) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings by certified or registered mail to the last known address and such parent fails to object to the proceedings within 15 days of the mailing of such notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings through an order of publication pursuant to §§ 8.01-316 and 8.01-317, and such parent fails to object to the proceedings.

C. At the hearing held pursuant to this section, the court shall hear evidence on the petition filed and shall review the foster care plan for the child filed by the local board or child welfare agency in accordance with § 16.1-281.

D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance of the evidence, whether approval of the entrustment agreement is in the best interest of the child. However, if the petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, the court shall make a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child. If the court makes either of these findings, the court may make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The effect of the court's order approving a permanent entrustment agreement is to terminate an entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency or (ii) granting custody or guardianship to a ~~person with a legitimate interest relative or fictive kin~~. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. A final order terminating parental rights pursuant to this section renders the approved entrustment agreement irrevocable. Such order may be appealed in accordance with the provisions of § 16.1-296.

D1. Any order transferring custody of the child to a ~~person with a legitimate interest relative or fictive kin~~ pursuant to subsection D shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who (i) after an investigation as directed by the court, is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The

court's order transferring custody to a ~~person with a legitimate interest~~ *relative or fictive kin* should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement. *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is contrary to the best interests of the child.*

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

§ 16.1-277.02. Petition for relief of care and custody.

A. Requests for petitions for relief of the care and custody of a child shall be referred initially to the local department of social services for investigation and the provision of services, if appropriate, in accordance with the provisions of § 63.2-319 or Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. The local department of social services shall, as part of its investigation, (i) refer the parent to the local family assessment and planning team and (ii) create a written report regarding the history of the child and family. A referral to the local family assessment and planning team in accordance with clause (i) shall not interfere with or delay any proceeding or hearing related to the petition unless the court determines that any recommendations made by or information gathered from the family assessment and planning team is necessary for the court to make a final disposition in the matter. Upon the filing of a petition for relief of a child's care and custody pursuant to subdivision A 4 of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing on the petition. Such hearing on the petition may include partial or final disposition of the matter. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The child, if he is 12 years of age or older;
2. The guardian ad litem for the child;

3. The child's parents, custodian or other person standing in loco parentis to the child. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. The hearing on the petition shall be held pursuant to this section although a parent fails to appear and is not represented by counsel, provided personal or substituted service was made on the parent, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, in the case of a hearing to grant a petition for permanent relief of custody and terminate a parent's residual parental rights, notice to the parent whose rights may be affected shall be provided in accordance with the provisions of §§ 16.1-263 and 16.1-264; and

4. The local board of social services. Upon receiving notice of the hearing pursuant to this section, the local board of social services shall investigate the matter and provide services, as appropriate, in accordance with the provisions of § 63.2-319 or Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.

B. At the hearing, the local board of social services, the child, the child's parents, guardian, legal custodian or other person standing in loco parentis and any other family or household member of the child to whom notice was given shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

C. At the conclusion of the hearing on the petition, the court shall make a finding, based upon a preponderance of the evidence, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody, unless the petition seeks permanent relief of custody and termination of parental rights. If the petition seeks permanent relief of custody and termination of parental rights, the court shall make a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child. If the court makes either of these findings, the court may enter:

1. A preliminary protective order pursuant to § 16.1-253;
2. An order that requires the local board of social services to provide services to the family as required by law;
3. An order that is consistent with any of the dispositional alternatives pursuant to § 16.1-278.3; or
4. Any combination of these orders.

Any such order transferring legal custody of the child shall be made in accordance with the provisions of

subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection C1. This order shall include; ~~but need not be limited to~~, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services or to a licensed child-placing agency or granting custody or guardianship to a ~~person with a legitimate interest relative or fictive kin~~. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The court shall schedule a subsequent hearing within 60 days of the hearing held pursuant to this section: (a) to enter a final order of disposition pursuant to § 16.1-278.3 or (b) if the child is placed in foster care, for review of the foster care plan filed pursuant to § 16.1-281. If a party is required to be present at the subsequent hearing, and (1) is present at the hearing on the petition, the party shall be given notice of the date set for the subsequent hearing; (2) if not present, shall be summoned as provided in § 16.1-263.

C1. Any order transferring temporary custody of the child to a ~~person with a legitimate interest relative or fictive kin~~ pursuant to subsection C shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is willing and has the ability to protect the child from abuse and neglect. The court's order transferring temporary custody to a ~~person with a legitimate interest relative or fictive kin~~ should further provide for compliance with any preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-253; and, as appropriate, ongoing provision of social services to the child and the child's custodian; and court review of the child's placement with such ~~person with a legitimate interest relative or fictive kin~~. Any final order transferring custody of the child to a ~~person with a legitimate interest relative or fictive kin~~ pursuant to this section shall, in addition, be entered only after an investigation as directed by the court and upon a finding, stated in the court's order, that such person is one who satisfies clauses (i), (ii), and (iii) and is committed to providing a permanent, suitable home for the child. *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is contrary to the best interests of the child.*

D. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

§ 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.

A. Within 60 days of a preliminary removal order hearing held pursuant to § 16.1-252 or a hearing on a preliminary protective order held pursuant to § 16.1-253, a dispositional hearing shall be held if the court found abuse or neglect and (i) removed the child from his home or (ii) entered a preliminary protective order. Notice of the dispositional hearing shall be provided to the child's parent, guardian, legal custodian, or other person standing in loco parentis in accordance with § 16.1-263. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian, or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. Notice shall also be provided to the local department of social services, the guardian ad litem and, if appointed, the court-appointed special advocate.

If a child is found to be (a) abused or neglected; (b) at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in his care; or (c) abandoned by his parent or other custodian, or without parental care and guardianship because of his parent's absence or physical or mental incapacity, the juvenile court or the circuit court 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 parent, subject to such conditions and limitations as the court may order with respect to such child and his parent or other adult occupant of the same dwelling;

3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude 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 that may include limiting or prohibiting contact for another 180 days;

4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child-caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child. Nothing herein shall limit the authority of the court to review the child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan through a petition filed pursuant to subsection A of § 16.1-282.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

5. 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 ~~person with a legitimate interest~~ *relative or fictive kin* subject to the provisions of subsection A1;
 b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not 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; or

c. The local board of 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. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the 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. Nothing herein shall limit the authority of the court to review the child's status in foster care in accordance with subsection G of § 16.1-281 or to review the foster care plan through a petition filed pursuant to subsection A of § 16.1-282.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this section shall be entered only upon a finding by the court that 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.

A finding by the court that reasonable efforts were made to prevent removal of the child from his home shall not be required if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such

679 conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to
680 protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a
681 child or in serious bodily injury to such a child.

682 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's
683 health, safety and well-being at risk.

684 "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain,
685 protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member,
686 organ or mental faculty.

687 "Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but
688 otherwise meets the definition of "aggravated circumstances."

689 6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent to participate in
690 such services and programs or to refrain from such conduct as the court may prescribe; or

691 7. Terminate the rights of the parent pursuant to § 16.1-283.

692 A1. Any order transferring custody of the child to a ~~person with a legitimate interest relative or fictive kin~~
693 pursuant to subdivision A 5 shall be entered only upon a finding, based upon a preponderance of the
694 evidence, that such person is one who, after an investigation as directed by the court, (i) is found by the court
695 to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous
696 relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv)
697 is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The
698 court's order transferring custody to a ~~person with a legitimate interest relative or fictive kin~~ should further
699 provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare;
700 ongoing provision of social services to the child and the child's custodian; and court review of the child's
701 placement. *Placement with a relative shall take priority over placement with fictive kin, unless such relative*
702 *placement is contrary to the best interests of the child.*

703 B. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster
704 care plan for the child filed in accordance with § 16.1-281 by the local department of social services, a public
705 agency designated by the community policy and management team which places a child through an
706 agreement with the parents or guardians where legal custody remains with the parents or guardians, or child
707 welfare agency.

708 C. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional
709 hearing and may be incorporated, as appropriate, in the dispositional order.

710 D. A dispositional order entered pursuant to this section is a final order from which an appeal may be
711 taken in accordance with § 16.1-296.

712 **§ 16.1-278.3. Relief of care and custody.**

713 A. Within 60 days of a hearing on a petition for relief of the care and custody of any child pursuant to
714 § 16.1-277.02 at which the court found (i) good cause for the petitioner's desire to be relieved of a child's care
715 and custody or (ii) that permanent relief of custody and termination of residual parental rights is in the best
716 interest of the child, a dispositional hearing shall be held, if a final order disposing of the matter was not
717 entered at the conclusion of the hearing on the petition held pursuant to § 16.1-277.02.

718 B. Notice of the dispositional hearing shall be provided to the local department of social services, the
719 guardian ad litem for the child, the child if he is at least 12 years of age, and the child's parents, custodian or
720 other person standing in loco parentis. However, if a parent's residual parental rights were terminated at the
721 hearing on the petition held pursuant to § 16.1-277.02, no such notice of the hearing pursuant to this section
722 shall be provided to the parent. The hearing shall be held and a dispositional order may be entered, although a
723 parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by
724 counsel, provided personal or substituted service was made on the person, or the court determines that the
725 person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth,
726 the person cannot be found or his post office address cannot be ascertained after reasonable effort. However,
727 in the case of a hearing to grant a petition for permanent relief of custody and terminate a parent's residual
728 parental rights, notice to the parent whose rights may be affected shall be provided in accordance with the
729 provisions of §§ 16.1-263 and 16.1-264.

730 C. The court may make any of the orders of disposition permitted in a case involving an abused or
731 neglected child pursuant to § 16.1-278.2. Any such order transferring legal custody of the child shall be made
732 in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of
733 subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no
734 less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to
735 prevent removal and that continued placement in the home would be contrary to the welfare of the child, if
736 the order transfers legal custody of the child to a local board of social services. Any preliminary protective
737 orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated,
738 as appropriate, in the dispositional order. If the child has been placed in foster care, at the dispositional
739 hearing the court shall review the foster care plan for the child filed by the local board of social services or
740 child welfare agency in accordance with § 16.1-281.

D. If the parent or other custodian seeks to be relieved permanently of the care and custody of any child and the court finds by clear and convincing evidence that termination of the parent's parental rights is in the best interest of the child, the court may terminate the parental rights of that parent. If the remaining parent has not petitioned for permanent relief of the care and custody of the child, the remaining parent's parental rights may be terminated in accordance with the provisions of § 16.1-283. Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency or (ii) granting custody or guardianship to a ~~person with a legitimate interest~~ *relative or fictive kin*. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. Proceedings under this section shall be advanced on the docket so as to provide for their earliest practicable disposition. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

D1. Any order transferring custody of the child to a ~~person with a legitimate interest~~ *relative or fictive kin* pursuant to subsection C or D shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a ~~person with a legitimate interest~~ *relative or fictive kin* should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement. *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is contrary to the best interests of the child.*

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

F. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

§ 16.1-283. Termination of residual parental rights.

A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding if the petition specifically requests such relief. No petition seeking termination of residual parental rights shall be accepted by the court prior to the filing of a foster care plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the best interests of the child. The court may hear and adjudicate a petition for termination of parental rights in the same proceeding in which the court has approved a foster care plan which documents that termination is in the best interests of the child. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. The local board of social services or a licensed child-placing agency need not have identified an available and eligible family to adopt a child for whom termination of parental rights is being sought prior to the entry of an order terminating parental rights.

Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services or to a licensed child-placing agency or transferring custody to a ~~person with a legitimate interest~~ *relative or fictive kin*. However, in such cases the court shall give a consideration to granting custody to a ~~person with a legitimate interest~~ *relative or fictive kin*, and if custody is not granted to a ~~person with a legitimate interest~~ *relative or fictive kin*, the judge shall communicate to the parties the basis for such decision either orally or in writing. An order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto.

The summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child, a relative providing care for the child, and any preadoptive parents for the child informing them that they may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding. The persons entitled to notice and

803 an opportunity to be heard need not be made parties to the proceedings. The summons or notice of hearing
804 shall clearly state the consequences of a termination of residual parental rights. Service shall be made
805 pursuant to § 16.1-264.

806 A1. Any order transferring custody of the child to a ~~person with a legitimate interest~~ *relative or fictive kin*
807 pursuant to subsection A shall be entered only upon a finding, based upon a preponderance of the evidence,
808 that such person is one who, after an investigation as directed by the court, (i) is found by the court to be
809 willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous
810 relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv)
811 is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The
812 court's order transferring custody to a ~~person with a legitimate interest~~ *relative or fictive kin* should further
813 provide, as appropriate, for any terms and conditions that would promote the child's interest and welfare.
814 *Placement with a relative shall take priority over placement with fictive kin, unless such relative placement is*
815 *contrary to the best interests of the child.*

816 B. The residual parental rights of a parent or parents of a child found by the court to be neglected or
817 abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement entered
818 into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents may be
819 terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the
820 child and that:

821 1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health
822 or development; and

823 2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be
824 substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a
825 reasonable period of time. In making this determination, the court shall take into consideration the efforts
826 made to rehabilitate the parent or parents by any public or private social, medical, mental health or other
827 rehabilitative agencies prior to the child's initial placement in foster care.

828 Proof of any of the following shall constitute prima facie evidence of the conditions set forth in
829 subdivision B 2:

830 a. The parent or parents have a mental or emotional illness or intellectual disability of such severity that
831 there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed
832 by the child in accordance with his age and stage of development;

833 b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other
834 dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without
835 good cause, has not responded to or followed through with recommended and available treatment which
836 could have improved the capacity for adequate parental functioning; or

837 c. The parent or parents, without good cause, have not responded to or followed through with appropriate,
838 available and reasonable rehabilitative efforts on the part of social, medical, mental health or other
839 rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

840 C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court
841 commitment, an entrustment agreement entered into by the parent or parents or other voluntary
842 relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing
843 evidence, that it is in the best interests of the child and that:

844 1. The parent or parents have, without good cause, failed to maintain continuing contact with and to
845 provide or substantially plan for the future of the child for a period of six months after the child's placement
846 in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other
847 rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child
848 relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing
849 and planned basis with the child for a period of six months shall constitute prima facie evidence of this
850 condition; or

851 2. The parent or parents, without good cause, have been unwilling or unable within a reasonable period of
852 time not to exceed 12 months from the date the child was placed in foster care to remedy substantially the
853 conditions which led to or required continuation of the child's foster care placement, notwithstanding the
854 reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such
855 end. Proof that the parent or parents, without good cause, have failed or been unable to make substantial
856 progress towards elimination of the conditions which led to or required continuation of the child's foster care
857 placement in accordance with their obligations under and within the time limits or goals set forth in a foster
858 care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a
859 public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie
860 evidence of this condition. The court shall take into consideration the prior efforts of such agencies to
861 rehabilitate the parent or parents prior to the placement of the child in foster care.

862 D. The residual parental rights of a parent or parents of a child found by the court to be neglected or
863 abused upon the ground of abandonment may be terminated if the court finds, based upon clear and
864 convincing evidence, that it is in the best interests of the child and that:

1. The child was abandoned under such circumstances that either the identity or the whereabouts of the parent or parents cannot be determined; and

2. The child's parent or parents, guardian, or relatives have not come forward to identify such child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care; and

3. Diligent efforts have been made to locate the child's parent or parents, guardian, or relatives without avail.

E. The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) the parent has subjected any child to aggravated circumstances.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse which place the child's health, safety and well-being at risk.

"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this subsection or who has been found by the court to have subjected any child to aggravated circumstances.

F. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first written Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

G. Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he is 14 years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination. However, residual parental rights of a child 14 years of age or older may be terminated over the objection of the child, if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

§ 63.2-100. Definitions.

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

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

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, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

927 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
928 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in
929 accordance with the tenets and practices of a recognized church or religious denomination shall for that
930 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
931 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
932 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition
933 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
934 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
935 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
936 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
937 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
938 No child whose parent or other person responsible for his care allows the child to engage in independent
939 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
940 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
941 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
942 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
943 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
944 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
945 § 16.1-278.4;

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

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

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

952 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
953 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in
954 § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
955 person responsible for his care knows has been convicted of an offense against a minor for which registration
956 is required as a Tier III offender pursuant to § 9.1-902; or

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

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

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

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

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

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

981 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
982 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
983 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
984 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
985 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
986 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
987 possession, or control of an adult's financial resources or property through the use of undue influence,
988 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services

against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

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

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

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

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

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

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

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

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

"Board" means the State Board of Social Services.

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

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

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

"Children's advocacy center" means a child-friendly facility that (i) enables law enforcement, child protection, prosecution, mental health, medical, and victim advocacy professionals to work together to investigate child abuse, help children heal from abuse, and hold offenders accountable; (ii) has completed, or is in the process of completing, certain accreditation obligations and requires any forensic interview

1051 conducted at such facility to only be conducted by a trained child forensic interviewer in a multidisciplinary
1052 team collaborative effort; and (iii) is a member in good standing of the Children's Advocacy Centers of
1053 Virginia.

1054 "Children's Advocacy Centers of Virginia" means the organizing entity for children's advocacy centers in
1055 Virginia.

1056 "Child support services" means any civil, criminal or administrative action taken by the Division of Child
1057 Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child
1058 support, or child and spousal support.

1059 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent foster
1060 home.

1061 "Children's residential facility" means any facility, child-caring institution, or group home that is
1062 maintained for the purpose of receiving children separated from their parents or guardians for full-time care,
1063 maintenance, protection and guidance, or for the purpose of providing independent living services to persons
1064 between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's
1065 residential facility shall not include:

1066 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return
1067 annually to the homes of their parents or guardians for not less than two months of summer vacation;

1068 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

1069 3. A licensed or accredited hospital legally maintained as such.

1070 "Commissioner" means the Commissioner of the Department, his designee or authorized representative.

1071 "Department" means the State Department of Social Services.

1072 "Department of Health and Human Services" means the Department of Health and Human Services of the
1073 United States government or any department or agency thereof that may hereafter be designated as the agency
1074 to administer the Social Security Act, as amended.

1075 "Disposable income" means that part of the income due and payable of any individual remaining after the
1076 deduction of any amount required by law to be withheld.

1077 "Energy assistance" means benefits to assist low-income households with their home heating and cooling
1078 needs, including, but not limited to, purchase of materials or substances used for home heating, repair or
1079 replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling
1080 equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or
1081 provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home
1082 Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

1083 "Family and permanency team" means the group of individuals assembled by the local department to
1084 assist with determining planning and placement options for a child, which shall include, as appropriate, all
1085 biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to
1086 the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case
1087 of a child who is 14 years of age or older, the family and permanency team shall also include any members of
1088 the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

1089 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
1090 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with
1091 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been
1092 the foster parents.

1093 "Fictive kin" means persons who are not related to a child by blood, *marriage*, or adoption but have an
1094 established and meaningful relationship with the child or his family. *"Fictive kin" does not include current or*
1095 *former foster parents of the child.*

1096 "Foster care placement" means placement of a child through (i) an agreement between the parents or
1097 guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment
1098 or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does
1099 not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et
1100 seq.) of Title 20.

1101 "Foster home" means a residence approved by a child-placing agency or local board in which any child,
1102 other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to
1103 delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has
1104 been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who
1105 exercises legal authority over the child on a continuous basis for at least 24 hours without compensation,
1106 resides as a member of the household.

1107 "General relief" means money payments and other forms of relief made to those persons mentioned in
1108 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

1109 "Independent foster home" means a private family home in which any child, other than a child by birth or
1110 adoption of such person, resides as a member of the household and has been placed therein independently of
1111 a child-placing agency except (i) a home in which are received only children related by birth or adoption of
1112 the person who maintains such home and children of personal friends of such person; (ii) a home in which is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the

1175 local board of social services or licensed child-placing agency that placed the child in a qualified residential
1176 treatment program and is not affiliated with any placement setting in which children are placed by such local
1177 board of social services or licensed child-placing agency.

1178 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
1179 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
1180 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
1181 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
1182 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
1183 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
1184 members, including efforts to maintain connections between the child and his siblings and other family;
1185 documents and maintains records of such outreach efforts; and maintains contact information for any known
1186 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,
1187 facilitates participation by family members in the child's treatment program before and after discharge and
1188 documents the manner in which such participation is facilitated; (vi) provides discharge planning and
1189 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42
1190 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and
1191 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30
1192 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an
1193 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
1194 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
1195 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
1196 qualified residential treatment program, that would provide the most effective and appropriate level of care
1197 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
1198 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
1199 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be
1200 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
1201 16.1-282.1, or 16.1-282.2.

1202 "*Relative*" means an adult who is related to the child by blood, marriage, or adoption.

1203 "Residential living care" means a level of service provided by an assisted living facility for adults who
1204 may have physical or mental impairments and require only minimal assistance with the activities of daily
1205 living. The definition of "residential living care" includes the services provided by independent living
1206 facilities that voluntarily become licensed.

1207 "Sibling" means each of two or more children having one or more parents in common.

1208 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic
1209 violence services, or any other services program implemented in accordance with regulations adopted by the
1210 Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of
1211 Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5
1212 provided by local departments of social services in accordance with regulations and under the supervision of
1213 the Commissioner for Aging and Rehabilitative Services.

1214 "Special order" means an order imposing an administrative sanction issued to any party licensed pursuant
1215 to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall
1216 be considered a case decision as defined in § 2.2-4001.

1217 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to
1218 eligible individuals who have received custody of a relative child subject to a kinship guardianship assistance
1219 agreement developed in accordance with § 63.2-1306.

1220 "Supervised independent living setting" means the residence of a person 18 years of age or older who is
1221 participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where
1222 supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision.

1223 "Supervised independent living setting" does not include residential facilities or group homes.

1224 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
1225 Department through which a relative can receive monthly cash assistance for the support of his eligible
1226 children.

1227 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary
1228 Assistance for Needy Families program for families in which both natural or adoptive parents of a child
1229 reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW)
1230 participation under § 63.2-609.

1231 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security
1232 Act, as amended, and administered by the Department through which foster care is provided on behalf of
1233 qualifying children.