

HOUSE BILL NO. 1297

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on _____)

on _____)

(Patron Prior to Substitute—Delegate Carroll)

A BILL to amend and reenact §§ 2.2-3802, 51.5-148, 63.2-100, 63.2-1605, and 63.2-1606 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 14 of Title 51.5 sections numbered 51.5-148.1 and 51.5-148.2 and by adding sections numbered 63.2-1605.1, 63.2-1605.2, and 63.2-1605.3, relating to adult protective services; Adult Protective Services central registry.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3802, 51.5-148, 63.2-100, 63.2-1605, and 63.2-1606 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 14 of Title 51.5 sections numbered 51.5-148.1 and 51.5-148.2 and by adding sections numbered 63.2-1605.1, 63.2-1605.2, and 63.2-1605.3 as follows:

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;

2. Which may exist in publications of general circulation:

3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;

4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

32 6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission,
33 the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic
34 Beverage Control Authority;

35 7. Maintained by any of the following and that deal with investigations and intelligence gathering related
36 to criminal activity:

37 a. The Department of State Police;

38 b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;

39 c. Police departments of cities, counties, and towns;

40 d. Sheriff's departments of counties and cities;

41 e. Campus police departments of public institutions of higher education as established by Article 3
42 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and

43 f. The Division of Capitol Police.

44 8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect
45 while such cases are also subject to an ongoing criminal prosecution;

46 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

47 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of
48 travel or tourism in the Commonwealth, in which case names and addresses of persons requesting
49 information on those subjects may be disseminated upon written request to a person engaged in the business
50 of providing travel services or distributing travel information, provided the Virginia Tourism Authority is
51 reasonably assured that the use of the information will be so limited;

52 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General
53 Services and the Department of Forensic Science, which deal with scientific investigations relating to
54 criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

55 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal
56 with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2
57 (§ 2.2-307 et seq.);

58 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state
59 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and
60 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a
61 school board that deals with local investigations required by § 15.2-2511.2;

62 14. Maintained by the Department of Social Services or any local department of social services relating to
63 public assistance fraud investigations;

64 15. Maintained by the Department of Social Services related to child welfare or public assistance
65 programs when requests for personal information are made to the Department of Social Services. Requests
66 for information from these systems shall be made to the appropriate local department of social services that is
67 the custodian of that record. Notwithstanding the language in this section, an individual shall not be
68 prohibited from obtaining information from the central registry in accordance with the provisions of
69 § 63.2-1515; and

70 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult
71 protective services, or auxiliary grants when requests for personal information are made to the Department for
72 Aging and Rehabilitative Services. Requests for information from ~~these such~~ systems shall be made to the
73 appropriate local department of social services that is the custodian of that record. *However, notwithstanding*
74 *the provisions of this subdivision, persons shall be permitted to obtain information from the Adult Protective*
75 *Services central registry in accordance with § 51.5-148.2.*

76 **§ 51.5-148. Establishment of Adult Protective Services Unit; powers and duties.**

77 A. The Department shall have responsibility for the planning and oversight of adult protective services in
78 the Commonwealth. The Commissioner shall establish within the Department for Aging and Rehabilitative
79 Services an Adult Protective Services Unit ~~which~~ that shall oversee the planning, administration, and
80 implementation of adult protective services in the Commonwealth. Adult protective services shall be
81 provided to the public by local departments of social services pursuant to Chapter 16 (§ 63.2-1600 et seq.) of
82 Title 63.2 in cooperation with the Department and subject to the regulations and oversight of the
83 Commissioner.

84 B. The Adult Protective Services Unit shall have the following powers and duties:

85 1. To work together with local departments of social services to support, strengthen, and evaluate adult
86 protective services programs provided by such local departments;

87 2. To assist local departments of social services in developing and implementing programs to respond to
88 and prevent adult abuse, neglect, or exploitation;

89 3. To prepare, disseminate, and present educational programs and materials on adult abuse, neglect, and
90 exploitation to mandated reporters and the public;

91 4. To establish minimum standards of training and provide educational opportunities to qualify workers in

92 the field of adult protective services to determine whether reports of adult abuse, neglect, or exploitation are
93 substantiated. The Department shall establish and provide a uniform training program for adult protective
94 services workers in the Commonwealth. All adult protective services workers shall complete such training
95 within one year from the date of implementation of the training program or within the first year of their
96 employment;

97 5. To develop policies and procedures to guide the work of persons in the field of adult protective
98 services;

99 6. To prepare and disseminate statistical information on adult protective services in Virginia;

100 7. To operate an adult protective services 24-hour toll-free hotline and provide training and technical
101 assistance to the hotline staff;

102 8. To provide coordination among the adult protective services program and other state agencies; **and**

103 9. To work collaboratively with other agencies in the Commonwealth to facilitate the reporting and
104 investigation of suspected adult abuse, neglect, or exploitation; **and**

105 10. *To maintain an adult abuse, neglect, and exploitation information system and an Adult Protective
106 Services central registry pursuant to § 51.5-148.1.*

107 **§ 51.5-148.1. Adult Protective Services central registry; retention of records; notice; reports made in
108 bad faith or with malicious intent.**

109 A. *The Department shall establish and maintain an adult abuse, neglect, and exploitation information
110 system and an Adult Protective Services central registry (the central registry). Identifying information about
111 (i) an adult who the local department has determined is self-neglecting or (ii) a person who neglected an
112 adult without intent shall not be entered in the central registry. Subject to the provisions of § 51.5-148.2, the
113 operation of the central registry and the information contained in such registry shall be prescribed by
114 regulations promulgated by the Commissioner.*

115 B. *The Department shall maintain in the adult abuse, neglect, and exploitation information system all
116 reports regarding investigations in which a report was deemed unfounded and all reports received pursuant
117 to § 63.2-1606. Records contained in the adult abuse, neglect, and exploitation information system shall be
118 purged five years after the date of case record closure. Records associated with perpetrators entered into the
119 central registry shall be retained for the duration of the time that the perpetrator remains in the registry.*

120 *The Commissioner may promulgate regulations regarding (i) the purging of information from the central
121 registry after a certain period of time and (ii) a process through which persons may file a petition with the*

122 *Department to be removed from the registry upon satisfaction of certain criteria.*

123 *C. If any person who was alleged to have committed abuse, neglect, or exploitation in a report that was*
124 *determined to be unfounded believes that such report was made in bad faith or with malicious intent, such*
125 *person may petition the circuit court in the jurisdiction in which the report was made for the release to such*
126 *person of the investigation records. The petition shall specifically set forth the reasons the person believes*
127 *that such report was made in bad faith or with malicious intent. Upon the filing of such petition, the circuit*
128 *court shall request and the local department shall provide to the circuit court its records of the investigation*
129 *for in camera review. The petitioner shall be entitled to present evidence to support his petition. If the circuit*
130 *court determines that there is a reasonable question of fact as to whether the report was made in bad faith or*
131 *with malicious intent and that disclosure of the identity of the reporter would not be likely to endanger the life*
132 *or safety of the reporter, it shall provide to the petitioner a copy of the report and, if an investigation was*
133 *conducted, the records of the investigation. The original records shall be subject to discovery in any*
134 *subsequent civil action regarding the making of a report in bad faith or with malicious intent.*

135 **§ 51.5-148.2. Adult Protective Services central registry; disclosure of information.**

136 *The Department shall maintain the Adult Protective Services central registry established pursuant to*
137 *§ 51.5-148.1 on its website. Such central registry shall be searchable by members of the public, provided that*
138 *the person initiating the search provides the first and last name, the last four digits of the social security*
139 *number, and the birth date of the person who is the subject of the search.*

140 **§ 63.2-100. Definitions.**

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

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

143 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict,
144 or allows to be created or inflicted upon such child a physical or mental injury by other than accidental
145 means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions,
146 including, but not limited to, a child who is with his parent or other person responsible for his care either (i)
147 during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the
148 unlawful sale of such substance by that child's parents or other person responsible for his care, where such
149 manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

150 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
151 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in
152 accordance with the tenets and practices of a recognized church or religious denomination shall for that

153 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
154 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
155 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition
156 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
157 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
158 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
159 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
160 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
161 No child whose parent or other person responsible for his care allows the child to engage in independent
162 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
163 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
164 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
165 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
166 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
167 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
168 § 16.1-278.4;

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

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

175 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
176 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in
177 § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
178 person responsible for his care knows has been convicted of an offense against a minor for which registration
179 is required as a Tier III offender pursuant to § 9.1-902; or

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

183 If a civil proceeding under this title is based solely on the parent having left the child at a hospital or

184 emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the
185 child within 30 days of the child's birth to (i) a hospital that provides 24-hour emergency services, (ii) an
186 attended emergency medical services agency that employs emergency medical services providers, or (iii) a
187 newborn safety device located at and operated by such hospital or emergency medical services agency. For
188 purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find
189 such a child is a neglected child upon the ground of abandonment.

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

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

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

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

204 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
205 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
206 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
207 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
208 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
209 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
210 possession, or control of an adult's financial resources or property through the use of undue influence,
211 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services
212 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or
213 defrauded into agreeing, to pay for such goods or services or to perform such services.

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

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

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

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

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

245 four or more adults who are aged or infirm or who have disabilities. Maintenance or care means the
246 protection, general supervision and oversight of the physical and mental well-being of an individual who is
247 aged or infirm or who has a disability.

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

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

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

254 "Board" means the State Board of Social Services.

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

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

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

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

275 team collaborative effort; and (iii) is a member in good standing of the Children's Advocacy Centers of
276 Virginia.

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

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

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

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

289 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return
290 annually to the homes of their parents or guardians for not less than two months of summer vacation;
291 2. An establishment required to be licensed as a summer camp by § 35.1-18; and
292 3. A licensed or accredited hospital legally maintained as such.

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

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

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

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

300 "Energy assistance" means benefits to assist low-income households with their home heating and cooling
301 needs, including, but not limited to, purchase of materials or substances used for home heating, repair or
302 replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling
303 equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or

304 provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home
305 Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.

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

312 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
313 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with
314 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been
315 the foster parents.

316 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
317 relationship with the child or his family.

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

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

329 "General relief" means money payments and other forms of relief made to those persons mentioned in
330 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

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

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

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

342 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
343 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
344 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
345 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
346 living arrangement in which such child or person does not have daily substitute parental supervision.

347 "Independent living services" means services and activities provided to a child in foster care 14 years of
348 age or older who was committed or entrusted to a local board of social services, child welfare agency, or
349 private child-placing agency. "Independent living services" may also mean services and activities provided to
350 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
351 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
352 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
353 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
354 prior to placement in an independent living arrangement. Such services shall include counseling, education,
355 housing, employment, and money management skills development, access to essential documents, and other
356 appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

390 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to
391 perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a
392 home and community-based waiver program, including an independent physician contracting with the

393 Department of Medical Assistance Services to complete the uniform assessment instrument for residents of
394 assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance
395 Services to perform nursing facility pre-admission screenings.

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

400 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
401 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
402 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
403 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
404 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
405 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
406 members, including efforts to maintain connections between the child and his siblings and other family;
407 documents and maintains records of such outreach efforts; and maintains contact information for any known
408 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,
409 facilitates participation by family members in the child's treatment program before and after discharge and
410 documents the manner in which such participation is facilitated; (vi) provides discharge planning and
411 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42
412 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and
413 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30
414 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an
415 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
416 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
417 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
418 qualified residential treatment program, that would provide the most effective and appropriate level of care
419 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
420 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
421 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be
422 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
423 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

441 "Supervised independent living setting" means the residence of a person 18 years of age or older who is
442 participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 where
443 supervision includes a monthly visit with a service worker or, when appropriate, contracted supervision.
444 "Supervised independent living setting" does not include residential facilities or group homes.

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

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

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

454 qualifying children.

455 **§ 63.2-1605. Protective services for adults by local departments.**

456 A. Each local board, to the extent that federal or state matching funds are made available to each locality,
457 shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and
458 Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or
459 exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult
460 is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the
461 right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

462 B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of
463 such report and, *if the local department deems the report valid*, shall initiate an investigation *pursuant to*
464 § 63.2-1605.1 within 24 hours of the time the report is received in the local department. Local departments
465 shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as
466 defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the
467 adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

468 C. The local department shall immediately refer the matter and all relevant documentation to the local
469 law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took
470 place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for
471 investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon
472 determining, during the course of an investigation pursuant to this article, the occurrence of any of the
473 following:

474 1. Sexual abuse as defined in § 18.2-67.10;

475 2. Death that is believed to be the result of abuse or neglect;

476 3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or
477 neglect;

478 4. Suspected financial exploitation of an adult; or

479 5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death
480 or serious bodily harm.

481 Local law-enforcement agencies shall provide local departments with a preferred point of contact for
482 referrals.

483 D. The local department shall refer any appropriate matter and all relevant documentation, to the

484 appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

485 E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult
486 protective services, then the local department may petition the circuit court for an order allowing access or
487 entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may
488 enter an order permitting such access or entry.

489 F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed
490 consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings,
491 or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the
492 investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of
493 making an informed decision and of giving informed consent and either has no legal representative or the
494 legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be
495 given by an agent appointed under an advance medical directive or medical power of attorney, or by a person
496 authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately
497 available, then consent shall be deemed to be given.

498 G. Local departments shall foster the development, implementation, and coordination of adult protective
499 services to prevent adult abuse, neglect, and exploitation.

500 H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults
501 incarcerated in state correctional facilities.

502 I. The report and evidence received by the local department and any written findings, evaluations, records,
503 and recommended actions shall be confidential and shall be exempt from disclosure requirements of the
504 Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to
505 persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 ~~and~~, pursuant
506 to official interagency agreements or memoranda of understanding between state agencies, *or as otherwise*
507 *authorized under the provisions of § 63.2-1605.2.*

508 J. *All Except as provided in § 63.2-1605.3*, written findings and actions of the local department or its
509 director regarding adult protective services investigations are final and shall not be (i) appealable to the
510 Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of
511 judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

512 K. Each local department may foster, when practicable, the creation, maintenance, and coordination of
513 community-based multidisciplinary teams that shall include, where possible, members of the medical, mental

514 health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:

515 1. Assist the local department in identifying abused, neglected, and exploited adults as defined in

516 § 63.2-1603.

517 2. Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their

518 families.

519 3. Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of

520 adults.

521 4. Promote community awareness and action to address the abuse, neglect, and exploitation of adults.

522 5. Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation

523 of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options

524 for abused, neglected, and exploited adults.

525 Such multidisciplinary teams may share information among the parties in the performance of their duties

526 but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the

527 information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such

528 information and records shall be used by the team only in the exercise of its proper function and shall not be

529 disclosed. No person who participated in the team and no member of the team shall be required to make any

530 statement as to what transpired during a meeting or what information was collected during the meeting. Upon

531 the conclusion of a meeting, all information and records concerning the adult shall be returned to the

532 originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review

533 team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

534 **§ 63.2-1605.1. Investigations by local departments.**

535 *A. An adult protective services assessment shall be required for all adult protective services investigations*

536 *and entered in the information system to include:*

- 537 *1. The immediate safety needs of the adult alleged to be the victim of abuse, neglect, or exploitation;*
- 538 *2. The protective, rehabilitative, or other service needs of the adult alleged to be the victim of abuse,*
- 539 *neglect, or exploitation;*
- 540 *3. Risk of future harm to the adult alleged to be the victim of abuse, neglect, or exploitation;*
- 541 *4. Alternative plans for the safety of the adult alleged to be the victim of abuse, neglect, or exploitation if*
- 542 *protective, rehabilitative, or other services are needed and the adult is unable or unwilling to participate in*
- 543 *such services;*
- 544 *5. Whether abuse, neglect, or exploitation has occurred or is occurring;*

545 6. The identity of the perpetrator if that determination can be made; and

546 7. The investigation disposition.

547 B. If the local department responds to a report of adult abuse, neglect, or exploitation by conducting an
548 investigation, the local department shall:

549 1. Document the findings and results of the investigation and enter such information into the adult abuse,
550 neglect, and exploitation information system maintained by the Department for Aging and Rehabilitative
551 Services;

552 2. Consult with the adult alleged to be the victim of abuse, neglect, or exploitation to arrange for
553 necessary protective, rehabilitative, and other services to be provided to such adult, if the adult accepts these
554 services;

555 3. If the adult alleged to be the victim of abuse, neglect, or exploitation lacks the capacity to consent to
556 receive adult protective services, petition the court for services deemed necessary pursuant to § 63.2-1608;

557 4. Determine the investigation disposition within 45 days of the receipt of the report, and enter such
558 disposition in the adult abuse, neglect, and exploitation information system maintained by the Department for
559 Aging and Rehabilitative Services. Upon written justification by the local department, the time for such
560 determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being
561 conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so
562 warrant, as stated in the written justification, the time for such determination may be extended not to exceed
563 a total of 90 days. Documentation of the circumstances that resulted in the delay shall be placed in the record
564 and the local department shall provide notice of the investigation in accordance with Department
565 regulations.

566 Any information exchanged for the purposes of this subsection shall not be considered a violation of
567 § 51.5-122, 63.2-102, or 63.2-104.

568 **§ 63.2-1605.2. Cooperation by state entities.**

569 All law-enforcement departments and other state and local departments, agencies, authorities, and
570 institutions shall cooperate with each adult protective services worker of a local department in the detection,
571 investigation, and prevention of abuse, neglect, or exploitation.

572 **§ 63.2-1605.3. Appeals of certain actions of local departments.**

573 A. A person identified as a perpetrator of adult abuse, neglect, or exploitation in a substantiated
574 investigation pursuant to this article may, within 30 days of being notified of that determination, request the
575 local department to amend its determination and related records. Upon written request, the local department

576 shall provide the appellant all information used in making its determination. Disclosure of the reporter's
577 name, information that may endanger the well-being of the victim or any other person, or information
578 prohibited from disclosure by state or federal law or regulation shall not be released.

579 The local department shall hold an informal conference or review in which the appellant, who may be
580 represented by counsel, and representatives of the local department shall be entitled to informally present
581 testimony of witnesses, documents, factual data, arguments, or other submissions of proof to the local
582 department. With the exception of the local director, no person whose regular duties include substantial
583 involvement with adult abuse, neglect, or exploitation cases shall preside over the informal conference or
584 review.

585 If the local department refuses the request for amendment or fails to act within 45 days after receiving
586 such request, the appellant may, within 30 days thereafter, petition the Commissioner for Aging and
587 Rehabilitative Services for an administrative review hearing. The appellant may obtain an extension of the
588 45-day period in which the local department must act by submitting a written request for such extension to
589 the Commissioner for Aging and Rehabilitative Services. The extension period, which shall not exceed 60
590 days, shall begin at the end of the original 45-day period in which the local department must act. In the event
591 an extension is granted, the 30-day period in which the appellant is permitted to request an administrative
592 review hearing by the Commissioner for Aging and Rehabilitative Services shall begin on the termination of
593 the extension period. Upon receiving a timely request for an administrative review hearing, the
594 Commissioner for Aging and Rehabilitative Services shall grant a hearing to determine whether it appears,
595 by a preponderance of the evidence, that the local department's determination or record contains information
596 that is irrelevant or inaccurate regarding the commission of abuse, neglect, or exploitation by the appellant
597 and therefore shall be amended.

598 B. The Commissioner for Aging and Rehabilitative Services shall designate and authorize one or more
599 duly qualified hearing officers to preside over such administrative review hearings. The decision of such
600 hearing officers shall have the same force and effect as if the Commissioner for Aging and Rehabilitative
601 Services had made the decision. The hearing officer shall have the authority to issue subpoenas for the
602 production of documents and the appearance of witnesses. The hearing officer is authorized to determine the
603 number of depositions that will be allowed and to administer oaths or affirmations to all parties and
604 witnesses who plan to testify at the hearing.

605 The Commissioner for Aging and Rehabilitative Services shall adopt regulations necessary for the
606 conduct of such appeals and hearings. Such regulations shall include provisions stating that (i) the appellant

607 and local department have the right to submit oral or written testimony or documents, (ii) the appellant may
608 be represented by counsel at the hearing, and (iii) the appellant shall be informed of the procedures by which
609 information will be made available to or withheld from the appellant. In the case of any information withheld,
610 the appellant shall be advised of the general nature of such information and the reasons, for privacy or
611 otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may
612 depose a nonparty and submit such deposition at the hearing pursuant to regulation. Upon written motion
613 and good cause shown, the hearing officer may issue subpoenas for the production of documents or to
614 compel the attendance of witnesses at the hearing. Hearing officers shall have the authority to order the
615 amendment of any determinations or records presented if necessary to ensure such determinations or records
616 are accurate and in compliance with the requirements of this chapter or regulations adopted pursuant
617 thereto. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to
618 review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final
619 decision that is subject to judicial review.

620 If, after hearing the facts of the case, the hearing officer determines that the appellant has presented
621 information that was not available to the local department at the time of the local conference and, if made
622 available, may have resulted in a different determination by the local department, the hearing officer may
623 remand the case to the local department for reconsideration. Upon remand, the local department shall
624 reconsider the case within 14 days. If the local department fails to act or amend the record to the satisfaction
625 of the appellant within 14 days, the case shall be returned to the hearing officer for a determination.

626 If aggrieved by the decision of the hearing officer, the appellant may request further review of the
627 decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

628 C. Whenever an appeal of the local department's finding is made and a criminal charge or investigation is
629 also filed or commenced against the appellant for the same conduct involving the same victim as investigated
630 by the local department, the appeal process shall automatically be stayed until the criminal prosecution in
631 the trial court is completed, until the criminal investigation is closed, or, in the case of a criminal
632 investigation that is not completed within 180 days of the appellant's request for an appeal of the local
633 department's finding, for 180 days after the appellant's request for appeal. During such stay, the appellant's
634 right of access to the records of the local department regarding the matter being appealed shall also be
635 stayed. Once the criminal prosecution in the trial court has been completed, the criminal investigation is
636 closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's
637 request for an appeal of the local department's finding, 180 days have passed, the local department shall

638 advise the appellant in writing of his right to resume his appeal within the time frames provided by law and
639 regulation.

640 D. The local department shall transmit all decisions and findings made during an informal conference or
641 review pursuant to this section to the Department for Aging and Rehabilitative Services.

642 **§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

643 A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported
644 immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities
645 inspectors of the Department of Health are exempt from reporting suspected abuse immediately while
646 conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social
647 Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the
648 local department or the adult protective services hotline in accordance with requirements of this section by
649 the following persons acting in their professional capacity:

650 1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the
651 exception of persons licensed by the Board of Veterinary Medicine;

652 2. Any mental health services provider as defined in § 54.1-2400.1;

653 3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5,
654 unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending
655 physician at the hospital to which the adult is transported, who shall make such report forthwith;

656 4. Any guardian or conservator of an adult;

657 5. Any person employed by or contracted with a public or private agency or facility and working with
658 adults in an administrative, supportive or direct care capacity;

659 6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but
660 not limited to, companion, chore, homemaker, and personal care workers;

661 7. Any law-enforcement officer; and

662 8. Any person who engages in the practice of behavior analysis, as defined in § 54.1-2900.

663 B. The report shall be made in accordance with subsection A to the local department of the county or city
664 wherein the adult resides or wherein the adult abuse, neglect, or exploitation is believed to have occurred or
665 to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede
666 any other obligation to report as required by law. If a person required to report under this section receives
667 information regarding abuse, neglect or exploitation while providing professional services in a hospital,
668 nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the

669 institution or his designee, who shall report such information, in accordance with the institution's policies and
670 procedures for reporting such matters, immediately upon his determination that there is reason to suspect
671 abuse, neglect or exploitation. Any person required to make the report or notification required by this
672 subsection shall do so either orally or in writing and shall disclose all information that is the basis for the
673 suspicion of adult abuse, neglect, or exploitation. Upon request, any person required to make the report shall
674 make available to the adult protective services worker and the local department investigating the reported
675 case of adult abuse, neglect, or exploitation any information, records or reports which document the basis for
676 the report. All persons required to report suspected adult abuse, neglect, or exploitation shall cooperate with
677 the investigating adult protective services worker of a local department and shall make information, records
678 and reports which are relevant to the investigation available to such worker to the extent permitted by state
679 and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further
680 disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may,
681 however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional
682 adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional
683 adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or
684 regional adult fatality review team.

685 C. Any financial institution staff who suspects that an adult has been exploited financially may report such
686 suspected financial exploitation and provide supporting information and records to the local department of
687 the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the
688 adult protective services hotline.

689 D. Any person other than those specified in subsection A who suspects that an adult is an abused,
690 neglected or exploited adult may report the matter to the local department of the county or city wherein the
691 adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult
692 protective services hotline.

693 E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D,
694 or who testifies in any judicial proceeding arising from such report, records or information, or who takes or
695 causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video
696 recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any
697 civil or criminal liability on account of such report, records, information, photographs, video recordings,
698 appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

699 F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to
700 the local department or to the adult protective services hotline. Employers whose employees are mandated
701 reporters shall notify employees upon hiring of the requirement to report.

702 G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect,
703 or exploitation that he knows to be false is guilty of a Class 4 misdemeanor. Any subsequent conviction of
704 this provision is a Class 2 misdemeanor.

705 H. Any person who fails to make a required report or notification pursuant to subsection A shall be
706 subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than
707 \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of
708 competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the
709 Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and
710 Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and
711 a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process
712 Act.

713 I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or
714 neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate
715 law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician.
716 The medical examiner and the law-enforcement agency shall receive the report and determine if an
717 investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the
718 medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or
719 to the adult protective services hotline.

720 J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge
721 that the same matter has already been reported to the local department or to the adult protective services
722 hotline.

723 K. All law-enforcement departments and other state and local departments, agencies, authorities, and
724 institutions shall cooperate with each adult protective services worker of a local department in the detection,
725 investigation, and prevention of adult abuse, neglect, and exploitation, *including matters related to the Adult*
726 *Protective Services central registry and perpetrators who will be listed in the registry.*

727 L. Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to
728 disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement

729 may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has
730 actual knowledge that another person has made, a report to the local department or adult protective services
731 hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or
732 contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to
733 execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business
734 days after the date upon which such transaction or disbursement was initially requested based on a good faith
735 belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial
736 exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon refusing to
737 execute a transaction, delaying a transaction, or refusing to disburse funds, the financial institution shall
738 report such refusal or delay within five business days to the local department or the adult protective services
739 hotline. Upon request, and to the extent permitted by state and federal law, financial institution staff may
740 report any information or records relevant to a report or investigation to the local department of social
741 services or to a court-appointed guardian ad litem for the adult who is the subject of the investigation. Absent
742 gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or
743 criminal liability for (a) providing information or records to the local department of social services or to a
744 court-appointed guardian ad litem or (b) refusing to execute a transaction, delaying a transaction, or refusing
745 to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute
746 a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be
747 contingent upon whether financial institution staff has reported suspected financial exploitation of the adult
748 pursuant to subsection C.

749 **2. That the Commissioner for Aging and Rehabilitative Services (the Commissioner) shall adopt
750 regulations to implement the provisions of this act. The Commissioner's initial adoption of such
751 regulations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of
752 the Code of Virginia).**

753 **3. That the provisions of this act shall become effective on July 1, 2028.**