

26101866D

HOUSE BILL NO. 942

House Amendments in [ ] - February 9, 2026

A BILL to amend and reenact §§ 16.1-228, 16.1-278.15, 20-124.2, and 63.2-100 of the Code of Virginia, relating to child abuse and neglect; custody and visitation; possession or consumption of authorized substances.

Patron Prior to Engrossment—Delegate Clark

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-278.15, 20-124.2, 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. However, possession or consumption of substances authorized under Title 4.1 or Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 by a child's parent or other person responsible for his care alone shall not serve as a basis to deem a child abused or neglected unless other facts establish that such possession or consumption causes or creates a risk of physical or mental injury to the child;

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

ENGROSSED

HB942E

2/9/26 16:03

59 Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

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

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

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

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

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

77 "Child in need of services" means (i) a child whose behavior, conduct, or condition presents or results in a  
78 serious threat to the well-being and physical safety of the child; (ii) a child who remains away from or deserts  
79 or abandons his family or lawful custodian during one occasion and is demonstratively at risk of coercion,  
80 exploitation, abuse, or manipulation or has been lured from his parent or lawful custodian by means of  
81 trickery or misrepresentation or under false pretenses; or (iii) a child under the age of 14 whose behavior,  
82 conduct, or condition presents or results in a serious threat to the well-being and physical safety of another  
83 person; however, no child who in good faith is under treatment solely by spiritual means through prayer in  
84 accordance with the tenets and practices of a recognized church or religious denomination shall for that  
85 reason alone be considered to be a child in need of services, nor shall any child who habitually remains away  
86 from or habitually deserts or abandons his family as a result of what the court or the local child protective  
87 services unit determines to be incidents of physical, emotional, or sexual abuse in the home be considered a  
88 child in need of services for that reason alone.

89 However, to find that a child falls within these provisions, (a) the conduct complained of must present a  
90 clear and substantial danger to the child's life or health or to the life or health of another person; (b) the child  
91 or his family is in need of treatment, rehabilitation, or services not presently being received; and (c) the  
92 intervention of the court is essential to provide the treatment, rehabilitation, or services needed by the child or  
93 his family.

94 "Child in need of supervision" means:

95 1. A child who, while subject to compulsory school attendance, is habitually and without justification  
96 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any  
97 and all educational services and programs that are required to be provided by law and which meet the child's  
98 particular educational needs, (ii) the school system from which the child is absent or other appropriate agency  
99 has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school  
100 system has provided documentation that it has complied with the provisions of § 22.1-258; or

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

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

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

112 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance  
113 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a  
114 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of  
115 § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

116 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed a  
117 delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has been  
118 terminated under the provisions of § 16.1-269.6.

119 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in  
120 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties

121 imposed upon him under this law.

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

124 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places  
125 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person  
126 against such person's family or household member. Such act includes, but is not limited to, any forceful  
127 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
128 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,  
129 sexual assault, or bodily injury.

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

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

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

153 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the  
154 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency  
155 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  
156 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a  
157 living arrangement in which such child or person does not have daily substitute parental supervision.

158 "Independent living services" means services and activities provided to a child in foster care 14 years of  
159 age or older and who has been committed or entrusted to a local board of social services, child welfare  
160 agency, or private child-placing agency. "Independent living services" may also mean services and activities  
161 provided to a person who (i) was in foster care on his eighteenth birthday and has not yet reached the age of  
162 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the  
163 Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least  
164 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile  
165 Justice immediately prior to placement in an independent living arrangement. "Independent living services"  
166 includes counseling, education, housing, employment, and money management skills development and access  
167 to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

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

170 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility  
171 as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child  
172 incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a  
173 juvenile facility.

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

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

178 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have  
179 physical custody of the child, to determine and redetermine where and with whom he shall live, the right and  
180 duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary  
181 medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by  
182 court order of joint custody as defined in § 20-107.2.

183 "Permanent foster care placement" means the place of residence in which a child resides and in which he  
184 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement  
185 between the placing agency and the place of permanent foster care that the child shall remain in the  
186 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to  
187 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural  
188 person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

193 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement  
194 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical  
195 and other needs of children with serious emotional or behavioral disorders, including any clinical or other  
196 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs  
197 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their  
198 practice, and are available 24 hours a day, seven days a week; (iv) conducts outreach with the child's family  
199 members, including efforts to maintain connections between the child and his siblings and other family;  
200 documents and maintains records of such outreach efforts; and maintains contact information for any known  
201 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,  
202 facilitates participation by family members in the child's treatment program before and after discharge and  
203 documents the manner in which such participation is facilitated; (vi) provides discharge planning and  
204 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42  
205 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and  
206 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30  
207 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an  
208 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of  
209 Social Services; (b) identifies whether the needs of the child can be met through placement with a family  
210 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a  
211 qualified residential treatment program, that would provide the most effective and appropriate level of care  
212 for the child in the least restrictive environment and be consistent with the short-term and long-term goals  
213 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
214 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be  
215 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
216 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

228 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of  
229 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

230 **§ 16.1-278.15. Custody or visitation, child or spousal support generally.**

231 A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of  
232 § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may  
233 be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is  
234 contested shall show proof that they have attended within the 12 months prior to their court appearance or  
235 that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a  
236 qualified person or organization approved by the Office of the Executive Secretary of the Supreme Court of  
237 Virginia. The court may require the parties to attend such seminar or program in uncontested cases only if the  
238 court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall  
239 address the effects of separation or divorce on children, parenting responsibilities, options for conflict  
240 resolution and financial responsibilities. Once a party has completed one educational seminar or other like  
241 program, the required completion of additional programs shall be at the court's discretion. Parties under this  
242 section shall include natural or adoptive parents of the child, or any person with a legitimate interest as  
243 defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's  
244 ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in

245 mediation or alternative dispute resolution to address custody, visitation or support, each party shall have  
 246 attended the educational seminar or other like program. The court may grant an exemption from attendance of  
 247 such program for good cause shown or if there is no program reasonably available. Other than statements or  
 248 admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a  
 249 party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support  
 250 is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age  
 251 of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the  
 252 parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school,  
 253 whichever occurs first. The court may also order that support be paid or continue to be paid for any child over  
 254 the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed  
 255 prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii),  
 256 and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent  
 257 seeking or receiving child support. Upon request of either party, the court may also order that support  
 258 payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.

259 B. In any case involving the custody or visitation of a child, the court may award custody upon petition to  
 260 any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former  
 261 stepparents, blood relatives and family members. For purposes of this section, a party with a legitimate  
 262 interest shall also include a parent whose rights previously had been terminated, provided that the child  
 263 whose custody or visitation is at issue (i) is at least 14 years of age; (ii) has had a permanency goal previously  
 264 achieved by adoption; (iii) has had his adoptive parents die or, pursuant to § 16.1-277.02, each of such child's  
 265 adoptive parents has permanently been relieved of custody of such child and each adoptive parent has had his  
 266 parental rights terminated; and (iv) is in the custody of a local board of social services, and provided that the  
 267 parent whose rights had previously been terminated has (a) complied with the terms of any written  
 268 post-adoption contact and communication agreement entered into pursuant to Article 1.1 (§ 63.2-1220.2 et  
 269 seq.) of Chapter 12 of Title 63.2 and (b) maintained a positive, continuous relationship with the child since  
 270 termination. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the  
 271 child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be  
 272 proscribed or limited where the custody of the child has previously been awarded to a local board of social  
 273 services.

274 C. In any determination of support obligation under this section, the support obligation as it becomes due  
 275 and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only  
 276 when docketed in the county or city where such real estate is located. Nothing herein shall be construed to  
 277 alter or amend the process of attachment of any lien on personal property.

278 D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition  
 279 or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the  
 280 Department of Social Services.

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

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

285 G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best  
 286 interest of the child, including the considerations for determining custody and visitation set forth in Chapter  
 287 6.1 (§ 20-124.1 et seq.) of Title 20.

288 G1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may,  
 289 in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

290 H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or  
 291 a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the  
 292 child, if the court finds such evaluation would assist it in its determination. The court may enter such orders  
 293 as it deems appropriate for the payment of the costs of the evaluation by the parties.

294 I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug  
 295 testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. [~~Such drug~~  
 296 ~~testing shall exclude testing for any substance permitted for lawful use by an adult authorized under Title 4.1~~  
 297 ~~or Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1.~~ ] *Such parent, guardian, legal custodian, or person*  
 298 *standing in loco parentis to the child shall not be construed to have failed a drug test if such drug test*  
 299 *includes a positive result for such substance authorized under Title 4.1 or Chapter 34 of Title 54.1.* The court  
 300 may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties. A  
 301 *person's legal possession or consumption of substances authorized under Title 4.1 or Chapter 34 of Title 54.1*  
 302 *alone shall not serve as a basis to restrict custody or visitation unless other facts establish that such*  
 303 *possession or consumption is not in the best interest of the child.*

304 J. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the  
 305 child up from school is entered pursuant to this section, the court shall order a party to such case or  
 306 proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled

307 within three business days of such party's receipt of such custody or visitation order.

308 If a custody determination affects the school enrollment of the child subject to such custody order and  
309 prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such  
310 custody order to the school at which the child will be enrolled within three business days of such party's  
311 receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall  
312 further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of  
313 such custody or visitation order to the new school at which the child is subsequently enrolled within three  
314 business days of such enrollment.

315 If the court determines that a party is unable to deliver the custody or visitation order to the school, such  
316 party shall provide the court with the name of the principal and address of the school, and the court shall  
317 cause the order to be mailed by first class mail to such school principal.

318 Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of  
319 such custody or visitation order.

320 **§ 20-124.2. Court-ordered custody and visitation arrangements.**

321 A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district  
322 court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and  
323 visitation arrangements, including support and maintenance for the children, prior to other considerations  
324 arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures  
325 for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of  
326 justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to  
327 litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include  
328 development of a proposal addressing the child's residential schedule and care arrangements, and how  
329 disputes between the parents will be handled in the future.

330 B. In determining custody, the court shall give primary consideration to the best interests of the child. The  
331 court shall consider and may award joint legal, joint physical, or sole custody, and there shall be no  
332 presumption in favor of any form of custody. The court shall assure minor children of frequent and  
333 continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities  
334 of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of  
335 either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing  
336 by clear and convincing evidence that the best interest of the child would be served thereby award custody or  
337 visitation to any other person with a legitimate interest. *A person's legal possession or consumption of*  
338 *substances authorized under Title 4.1 or Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 alone shall not serve*  
339 *as a basis to restrict custody or visitation unless other facts establish that such possession or consumption is*  
340 *not in the best interest of the child.*

341 B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may,  
342 in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."

343 B2. In any case or proceeding in which a grandparent has petitioned the court for visitation with a minor  
344 grandchild, and a natural or adoptive parent of the minor grandchild is deceased or incapacitated, the  
345 grandparent who is related to such deceased or incapacitated parent shall be permitted to introduce evidence  
346 of such parent's consent to visitation with the grandparent, in accordance with the rules of evidence. If the  
347 parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent  
348 visitation is in the best interest of the minor grandchild. For the purposes of this subsection, "incapacitated  
349 parent" has the same meaning ascribed to the term "incapacitated person" in § 64.2-2000.

350 C. The court may order that support be paid for any child of the parties. Upon request of either party, the  
351 court may order that such support payments be made to a special needs trust or an ABLE savings trust  
352 account as defined in § 23.1-700. The court shall also order that support will continue to be paid for any child  
353 over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the  
354 home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from  
355 high school, whichever first occurs. The court may also order that support be paid or continue to be paid for  
356 any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such  
357 disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of  
358 clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of  
359 the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of  
360 the parties which extends a support obligation beyond when it would otherwise terminate as provided by law.  
361 The court shall have no authority to decree support of children payable by the estate of a deceased party. The  
362 court may make such further decree as it shall deem expedient concerning support of the minor children,  
363 including an order that either party or both parties provide health care coverage or cash medical support, or  
364 both.

365 D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district  
366 court, the court may order an independent mental health or psychological evaluation to assist the court in its  
367 determination of the best interests of the child. The court may enter such order as it deems appropriate for the  
368 payment of the costs of the evaluation by the parties.

369 E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary  
 370 to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to  
 371 punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent  
 372 or other person having legal custody of a child may petition the court to enjoin and the court may enter an  
 373 order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for  
 374 any period of time up to 10 years if doing so is in the best interests of the child and such parent has been  
 375 convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state,  
 376 the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a  
 377 felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child  
 378 of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the  
 379 child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious  
 380 bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with  
 381 whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for  
 382 custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

383 F. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the  
 384 child up from school is entered pursuant to this section or § 20-103, the court shall order a party to such case  
 385 or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled  
 386 within three business days of such party's receipt of such custody or visitation order.

387 If a custody determination affects the school enrollment of the child subject to such custody order and  
 388 prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such  
 389 custody order to the school at which the child will be enrolled within three business days of such party's  
 390 receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall  
 391 further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of  
 392 such custody or visitation order to the new school at which the child is subsequently enrolled within three  
 393 business days of such enrollment.

394 If the court determines that a party is unable to deliver the custody or visitation order to the school, such  
 395 party shall provide the court with the name of the principal and address of the school, and the court shall  
 396 cause the order to be mailed by first class mail to such school principal.

397 Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of  
 398 such custody or visitation order.

399 **§ 63.2-100. Definitions.**

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

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

402 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict,  
 403 or allows to be created or inflicted upon such child a physical or mental injury by other than accidental  
 404 means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions,  
 405 including, but not limited to, a child who is with his parent or other person responsible for his care either (i)  
 406 during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the  
 407 unlawful sale of such substance by that child's parents or other person responsible for his care, where such  
 408 manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248.  
 409 *However, possession or consumption of substances authorized under Title 4.1 or Chapter 34 (§ 54.1-3400 et*  
 410 *seq.) of Title 54.1 by a child's parent or other person responsible for his care alone shall not serve as a basis*  
 411 *to deem a child abused or neglected unless other facts establish that such possession or consumption causes*  
 412 *or creates a risk of physical or mental injury to the child;*

413 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for  
 414 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in  
 415 accordance with the tenets and practices of a recognized church or religious denomination shall for that  
 416 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal  
 417 authority for the child or, in the absence of parents with legal authority for the child, any person with legal  
 418 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition  
 419 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or  
 420 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently  
 421 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person  
 422 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other  
 423 person with legal authority and the child believe in good faith that such decision is in the child's best interest.  
 424 No child whose parent or other person responsible for his care allows the child to engage in independent  
 425 activities without adult supervision shall for that reason alone be considered to be an abused or neglected  
 426 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and  
 427 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly  
 428 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or  
 429 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a  
 430 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of

431 § 16.1-278.4;

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

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

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

438 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental  
439 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in  
440 § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other  
441 person responsible for his care knows has been convicted of an offense against a minor for which registration  
442 is required as a Tier III offender pursuant to § 9.1-902; or

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

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

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

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

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

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

467 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in  
468 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or  
469 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his  
470 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"  
471 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure  
472 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,  
473 possession, or control of an adult's financial resources or property through the use of undue influence,  
474 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services  
475 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or  
476 defrauded into agreeing, to pay for such goods or services or to perform such services.

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

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

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

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

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

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

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

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

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

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

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

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

533 "Children's advocacy center" means a child-friendly facility that (i) enables law enforcement, child  
 534 protection, prosecution, mental health, medical, and victim advocacy professionals to work together to  
 535 investigate child abuse, help children heal from abuse, and hold offenders accountable; (ii) has completed, or  
 536 is in the process of completing, certain accreditation obligations and requires any forensic interview  
 537 conducted at such facility to only be conducted by a trained child forensic interviewer in a multidisciplinary  
 538 team collaborative effort; and (iii) is a member in good standing of the Children's Advocacy Centers of  
 539 Virginia.

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

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

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

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

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

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

555 3. A licensed or accredited hospital legally maintained as such.  
556 "Commissioner" means the Commissioner of the Department, his designee or authorized representative.  
557 "Department" means the State Department of Social Services.  
558 "Department of Health and Human Services" means the Department of Health and Human Services of the  
559 United States government or any department or agency thereof that may hereafter be designated as the agency  
560 to administer the Social Security Act, as amended.  
561 "Disposable income" means that part of the income due and payable of any individual remaining after the  
562 deduction of any amount required by law to be withheld.  
563 "Energy assistance" means benefits to assist low-income households with their home heating and cooling  
564 needs, including, but not limited to, purchase of materials or substances used for home heating, repair or  
565 replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling  
566 equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or  
567 provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home  
568 Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), as amended.  
569 "Family and permanency team" means the group of individuals assembled by the local department to  
570 assist with determining planning and placement options for a child, which shall include, as appropriate, all  
571 biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to  
572 the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case  
573 of a child who is 14 years of age or older, the family and permanency team shall also include any members of  
574 the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.  
575 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.  
576 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with  
577 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been  
578 the foster parents.  
579 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established  
580 relationship with the child or his family.  
581 "Foster care placement" means placement of a child through (i) an agreement between the parents or  
582 guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment  
583 or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does  
584 not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et  
585 seq.) of Title 20.  
586 "Foster home" means a residence approved by a child-placing agency or local board in which any child,  
587 other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to  
588 delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has  
589 been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who  
590 exercises legal authority over the child on a continuous basis for at least 24 hours without compensation,  
591 resides as a member of the household.  
592 "General relief" means money payments and other forms of relief made to those persons mentioned in  
593 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.  
594 "Independent foster home" means a private family home in which any child, other than a child by birth or  
595 adoption of such person, resides as a member of the household and has been placed therein independently of  
596 a child-placing agency except (i) a home in which are received only children related by birth or adoption of  
597 the person who maintains such home and children of personal friends of such person; (ii) a home in which is  
598 received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6  
599 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children  
600 who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of  
601 Title 20.  
602 "Independent living" means a planned program of services designed to assist a child age 16 and over and  
603 persons who are former foster care children or were formerly committed to the Department of Juvenile  
604 Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.  
605 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the  
606 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency  
607 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  
608 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a  
609 living arrangement in which such child or person does not have daily substitute parental supervision.  
610 "Independent living services" means services and activities provided to a child in foster care 14 years of  
611 age or older who was committed or entrusted to a local board of social services, child welfare agency, or  
612 private child-placing agency. "Independent living services" may also mean services and activities provided to  
613 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is  
614 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile  
615 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  
616 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately

617 prior to placement in an independent living arrangement. Such services shall include counseling, education,  
618 housing, employment, and money management skills development, access to essential documents, and other  
619 appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

663 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement  
664 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical  
665 and other needs of children with serious emotional or behavioral disorders, including any clinical or other  
666 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs  
667 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their  
668 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family  
669 members, including efforts to maintain connections between the child and his siblings and other family;  
670 documents and maintains records of such outreach efforts; and maintains contact information for any known  
671 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,  
672 facilitates participation by family members in the child's treatment program before and after discharge and  
673 documents the manner in which such participation is facilitated; (vi) provides discharge planning and  
674 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42  
675 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and  
676 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30  
677 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an  
678 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of

679 Social Services; (b) identifies whether the needs of the child can be met through placement with a family  
680 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a  
681 qualified residential treatment program, that would provide the most effective and appropriate level of care  
682 for the child in the least restrictive environment and be consistent with the short-term and long-term goals  
683 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and  
684 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be  
685 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,  
686 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

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

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

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

718 **2. That the Board of Social Services shall amend its regulations, guidance documents, and other**  
719 **instructional materials to ensure that such regulations, documents, and materials comply with, and**  
720 **that investigations and family assessments are conducted by local departments of social services in**  
721 **accordance with, the provisions of this act.**