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HOUSE BILL NO. 1366

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services
on _____)

(Patron Prior to Substitute—Delegate Callsen)

A BILL to amend and reenact §§ 63.2-100 and 63.2-203 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.2-203.1 and 63.2-319.1, relating to Department of Social Services; corrective action plans and assumption of temporary control of local boards and local departments.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-100 and 63.2-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.2-203.1 and 63.2-319.1 as follows:

§ 63.2-100. Definitions.

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

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

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

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 Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

"Auxiliary grants" means cash payments made to certain aged, blind, or disabled individuals who receive

benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

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

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

"Board" means the State Board of Social Services.

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

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

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

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

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

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

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

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

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

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

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

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

"Department" means the State Department of Social Services.

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

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

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

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of

184 the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

185 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
186 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with
187 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been
188 the foster parents.

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

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

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

202 "General relief" means money payments and other forms of relief made to those persons mentioned in
203 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

204 "Independent foster home" means a private family home in which any child, other than a child by birth or
205 adoption of such person, resides as a member of the household and has been placed therein independently of
206 a child-placing agency except (i) a home in which are received only children related by birth or adoption of
207 the person who maintains such home and children of personal friends of such person; (ii) a home in which is
208 received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6
209 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children
210 who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of
211 Title 20.

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

215 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
216 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
217 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
218 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
219 living arrangement in which such child or person does not have daily substitute parental supervision.

220 "Independent living services" means services and activities provided to a child in foster care 14 years of
221 age or older who was committed or entrusted to a local board of social services, child welfare agency, or
222 private child-placing agency. "Independent living services" may also mean services and activities provided to
223 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
224 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
225 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
226 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
227 prior to placement in an independent living arrangement. Such services shall include counseling, education,
228 housing, employment, and money management skills development, access to essential documents, and other
229 appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. "Social services" also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and Chapter 16 (§ 63.2-1600 et seq.) and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

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

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

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

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

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

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

328 **§ 63.2-203. Powers and duties of Commissioner generally.**

329 A. The Commissioner, subject to the regulations of the Board, shall have all of the powers and perform all
330 the duties conferred upon him by law, *including the authority to create and enforce corrective action plans*
331 *pursuant to § 63.2-203.1.* Except as otherwise provided, he shall supervise the administration of the
332 provisions of this title and shall see that all laws pertaining to the Department are carried out to their true
333 intent and spirit.

334 B. The Commissioner shall enforce the regulations adopted by the Board.

335 **§ 63.2-203.1. Intervention by Commissioner; corrective action plans; assumption of temporary control**
336 **of local boards and local departments.**

337 A. *In cases where a local department requests assistance, the Commissioner shall have the authority to*
338 *utilize Department staff or contract with private entities to provide public assistance and social services*
339 *programs in the locality served by the local board and manage funds appropriated for such purposes.*

340 B. *The Commissioner shall have the authority to create and enforce a corrective action plan for any local*
341 *board and local department that, in the Commissioner's discretion, (i) fails to administer public assistance*
342 *and social services programs in accordance with applicable laws and regulations or (ii) takes any action or*
343 *fails to act in a manner that poses a substantial risk to the health, safety, or well-being of a child or adult.*
344 *The corrective action plan shall (a) include specific objectives that the local board shall meet in order to*
345 *comply with applicable laws and regulations and ensure the health, safety, and well-being of all children and*
346 *adults about whom a report of abuse or neglect was made or who is in the local board's supervision and*
347 *control and (b) set the date by which such objectives shall be completed, which shall not extend beyond 90*
348 *days after implementation of the corrective action plan unless the Commissioner determines that the*
349 *objectives of the corrective action plan cannot be reasonably accomplished within such time frame. During*
350 *the time the corrective action plan is in effect, the Commissioner may direct Department staff to provide*
351 *assistance to the local board, monitor its progress in meeting the objectives stated in the plan, and take any*
352 *measures necessary to protect the health, safety, and well-being of children about whom a report of abuse or*
353 *neglect was made in accordance with the provisions of this chapter or who is in the local board's supervision*
354 *and control. The Commissioner shall provide regular updates to the chairman of the Board, chairman of the*
355 *local board, and local director regarding the local board's progress in meeting the objectives of the*
356 *corrective action plan.*

357 *Prior to implementing a corrective action plan, the Commissioner shall provide written notice of his*
358 *intent to implement the corrective action plan and the reasons that such plan was developed to the chairman*
359 *of the Board, chairman of the local board, and local director. Upon request by the chairman of the Board,*
360 *chairman of the local board, or local director, the Commissioner shall hold a hearing to determine whether a*
361 *corrective action plan is appropriate.*

362 C. *If the local board fails to timely comply with the corrective action plan, the Commissioner shall have*
363 *the authority to temporarily assume control over all or part of the local board's operations and associated*
364 *funds. Upon assuming such control, the Commissioner may utilize Department staff or contract with private*
365 *entities to provide public assistance and social services in the locality served by the local board and manage*
366 *funds appropriated for such purposes. For any period during which a local board is under the*
367 *Commissioner's control, the Commissioner shall work with the local board and local director to make any*
368 *adjustments necessary to facilitate the local board's resumption of control over its public assistance and*
369 *social services and funds. The Commissioner shall remit control of such public assistance and social services*

and funds to the local board upon determining that the local board has made all adjustments necessary to ensure that public assistance and social services are provided in compliance with state and federal law and regulations and in a manner that adequately protects the health, safety, and well-being of all children about whom a report of abuse or neglect was made in accordance with the provisions of this chapter or who is in the local board's supervision and control.

D. Whenever the Commissioner assumes temporary control over a local board's public assistance or social services and funds pursuant to this section, the amount of local funding made available for such services shall remain equal to or greater than the amounts available immediately prior to the Commissioner's assumption of temporary control.

§ 63.2-319.1. Intervention by Commissioner; corrective action plans; assumption of temporary control of local boards.

A. In cases where a local department of social services requests assistance, the Commissioner shall have the authority to utilize Department staff or contract with private entities to provide child welfare services in the locality served by the local board and manage funds appropriated for such purposes.

B. The Commissioner shall have the authority to create and enforce a corrective action plan for any local board that, in the Commissioner's discretion, (i) fails to provide child welfare services in accordance with applicable law or regulations or (ii) takes any action or fails to act in a manner that poses a substantial risk to the health, safety, or well-being of a child. The corrective action plan shall (a) include specific objectives that the local board shall meet in order to comply with applicable laws and regulations and ensure the health, safety, and well-being of all children about whom a report of abuse or neglect was made or who is in the local board's supervision and control and (b) set the date by which such objectives shall be completed, which shall not extend beyond 90 days after implementation of the corrective action plan unless the Commissioner determines that the objectives of the corrective action plan cannot be reasonably accomplished within such time frame. During the time the corrective action plan is in effect, the Commissioner may direct Department staff to provide assistance to the local board, monitor its progress in meeting the objectives stated in the plan, and take any measures necessary to protect the health, safety, and well-being of children about whom a report of abuse or neglect was properly made or who are in the local board's supervision and control. The Commissioner shall provide regular updates to the chairman of the Board, chairman of the local board, and local director regarding the local board's progress in meeting the objectives of the corrective action plan.

Prior to implementing a corrective action plan, the Commissioner shall provide written notice of his intent to implement the corrective action plan and the reasons that such plan was developed to the chairman of the Board, chairman of the local board, and local director. Upon request by the chairman of the Board, chairman of the local board, or local director, the Commissioner shall hold a hearing to determine whether a corrective action plan is appropriate.

C. If the local board fails to timely comply with the corrective action plan, the Commissioner shall have the authority to temporarily assume control over all or part of the local board's child welfare services and associated funds. Upon assuming such control, the Commissioner may utilize Department staff or contract with private entities to provide child welfare services in the locality served by the local board and manage funds appropriated for such purposes. For any period during which a local board is under the Commissioner's control, the Commissioner shall work with the local board and local director to make any adjustments necessary to facilitate the local board's resumption of control over its child welfare services and funds. The Commissioner shall remit control of such child welfare services and funds to the local board upon determining that the local board has made all adjustments necessary to ensure that child welfare services are provided in compliance with state and federal law and regulations and in a manner that adequately protects the health, safety, and well-being of all children about whom a report of abuse or neglect was made or who are in the local board's supervision and control.

D. Whenever the Commissioner assumes temporary control over a local board's child welfare services and funds pursuant to this section, the amount of local funding made available for such services shall remain equal to or greater than the amounts available immediately prior to the Commissioner's assumption of temporary control. Additionally, the locality in which the local board is located shall be required to pay the local share of any costs associated with any services necessary to align the local board's child welfare services with state and federal laws and regulations.

2. That the State Board of Social Services (the Board) shall promulgate regulations to implement the provisions of this act related to state oversight of social services pursuant to § 63.2-100 of the Code of Virginia, as amended by this act, and §§ 63.2-203.1 and 63.2-319.1 of the Code of Virginia, as created by this act. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on such regulations prior to adoption.