

26107576D

HOUSE BILL NO. 1327
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee for Courts of Justice
 on _____)
 (Patron Prior to Substitute—Delegate Tata)

A *BILL to amend and reenact §§ 16.1-228 and 63.2-100 of the Code of Virginia, relating to fictive kin; definition.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228 and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87 "Child in need of supervision" means:

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

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

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

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

105 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance
106 of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a
107 violation of a court order as provided for in § 16.1-292, but does not include an act other than a violation of
108 § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child.

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

112 "Department" means the Department of Juvenile Justice and "Director" means the administrative head in
113 charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties
114 imposed upon him under this law.

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

117 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or places
118 one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person
119 against such person's family or household member. Such act includes, but is not limited to, any forceful
120 detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title
121 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,

122 sexual assault, or bodily injury.

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

133 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
 134 relationship with the child or his family *and such relationship existed prior to the child's initial entry into*
 135 *foster care.*

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

147 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
 148 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
 149 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
 150 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
 151 living arrangement in which such child or person does not have daily substitute parental supervision.

152 "Independent living services" means services and activities provided to a child in foster care 14 years of
 153 age or older and who has been committed or entrusted to a local board of social services, child welfare
 154 agency, or private child-placing agency. "Independent living services" may also mean services and activities
 155 provided to a person who (i) was in foster care on his eighteenth birthday and has not yet reached the age of
 156 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the
 157 Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least
 158 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile
 159 Justice immediately prior to placement in an independent living arrangement. "Independent living services"
 160 includes counseling, education, housing, employment, and money management skills development and access
 161 to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

177 "Permanent foster care placement" means the place of residence in which a child resides and in which he
 178 has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement
 179 between the placing agency and the place of permanent foster care that the child shall remain in the
 180 placement until he reaches the age of majority unless modified by court order or unless removed pursuant to
 181 § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural
 182 person or persons deemed appropriate to meet a child's needs on a long-term basis.

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

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

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

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

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

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

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

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

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

222 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
223 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

224 § 63.2-100. Definitions.

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

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

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

234 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
235 his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in
236 accordance with the tenets and practices of a recognized church or religious denomination shall for that
237 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
238 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
239 authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition
240 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
241 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
242 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
243 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
244 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
245 No child whose parent or other person responsible for his care allows the child to engage in independent

246 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
247 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
248 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
249 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
250 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
251 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
252 § 16.1-278.4;

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

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

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

259 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
260 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in
261 § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
262 person responsible for his care knows has been convicted of an offense against a minor for which registration
263 is required as a Tier III offender pursuant to § 9.1-902; or

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

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

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

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

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

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

288 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
289 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
290 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
291 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
292 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
293 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
294 possession, or control of an adult's financial resources or property through the use of undue influence,
295 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services
296 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or
297 defrauded into agreeing, to pay for such goods or services or to perform such services.

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

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

308 and there is a written or oral expression of consent by that adult.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

368 "Children's residential facility" means any facility, child-caring institution, or group home that is
369 maintained for the purpose of receiving children separated from their parents or guardians for full-time care,

370 maintenance, protection and guidance, or for the purpose of providing independent living services to persons
 371 between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's
 372 residential facility shall not include:

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

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

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

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

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

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

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

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

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

396 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
 397 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with
 398 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been
 399 the foster parents.

400 "Fictive kin" means persons who are not related to a child by blood or adoption but have an established
 401 relationship with the child or his family *and such relationship existed prior to the child's initial entry into*
 402 *foster care.*

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

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

414 "General relief" means money payments and other forms of relief made to those persons mentioned in
 415 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

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

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

427 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
 428 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
 429 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
 430 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a
 431 living arrangement in which such child or person does not have daily substitute parental supervision.

432 "Independent living services" means services and activities provided to a child in foster care 14 years of
433 age or older who was committed or entrusted to a local board of social services, child welfare agency, or
434 private child-placing agency. "Independent living services" may also mean services and activities provided to
435 a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is
436 between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile
437 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
438 person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately
439 prior to placement in an independent living arrangement. Such services shall include counseling, education,
440 housing, employment, and money management skills development, access to essential documents, and other
441 appropriate services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

485 "Qualified residential treatment program" means a program that (i) provides 24-hour residential placement
486 services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical
487 and other needs of children with serious emotional or behavioral disorders, including any clinical or other
488 needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs
489 registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their
490 practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family
491 members, including efforts to maintain connections between the child and his siblings and other family;
492 documents and maintains records of such outreach efforts; and maintains contact information for any known
493 biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child,

494 facilitates participation by family members in the child's treatment program before and after discharge and
 495 documents the manner in which such participation is facilitated; (vi) provides discharge planning and
 496 family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42
 497 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and
 498 Human Services; and (viii) requires that any child placed in the program receive an assessment within 30
 499 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an
 500 age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of
 501 Social Services; (b) identifies whether the needs of the child can be met through placement with a family
 502 member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a
 503 qualified residential treatment program, that would provide the most effective and appropriate level of care
 504 for the child in the least restrictive environment and be consistent with the short-term and long-term goals
 505 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
 506 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be
 507 filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
 508 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

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

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

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

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

540 **2. That the State Board of Social Services (the Board) shall promulgate regulations necessary to**
 541 **implement the provisions of this act. The Board's initial adoption of regulations to implement the**
 542 **provisions of this act shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000**
 543 **et seq. of the Code of Virginia).**