

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 16.1-228 and 63.2-100 of the Code of Virginia, relating to fictive kin;*
 3 *definition.*

4 [H 1327]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 16.1-228 and 63.2-100 of the Code of Virginia are amended and reenacted as follows:**8 **§ 16.1-228. Definitions.**

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

10 "Abused or neglected child" means any child:

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

18 2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for
 19 his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in
 20 accordance with the tenets and practices of a recognized church or religious denomination shall for that
 21 reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal
 22 authority for the child or, in the absence of parents with legal authority for the child, any person with legal
 23 authority for the child who refuses a particular medical treatment for a child with a life-threatening condition
 24 shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or
 25 other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently
 26 mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person
 27 with legal authority and the child have considered alternative treatment options; and (iv) the parents or other
 28 person with legal authority and the child believe in good faith that such decision is in the child's best interest.
 29 No child whose parent or other person responsible for his care allows the child to engage in independent
 30 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
 31 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
 32 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
 33 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
 34 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
 35 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
 36 § 16.1-278.4;

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

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

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

43 6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental
 44 injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in
 45 § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other
 46 person responsible for his care knows has been convicted of an offense against a minor for which registration
 47 is required as a Tier III offender pursuant to § 9.1-902; or

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

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

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57 such a child is a neglected child upon the ground of abandonment.

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

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

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

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

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

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

85 "Child in need of supervision" means:

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

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

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

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

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

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

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

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

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

119 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death,
120 sexual assault, or bodily injury.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

220 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
221 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

222 § 63.2-100. Definitions.

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

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

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

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

243 No child whose parent or other person responsible for his care allows the child to engage in independent
 244 activities without adult supervision shall for that reason alone be considered to be an abused or neglected
 245 child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and
 246 physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly
 247 negligent as to endanger the health or safety of the child. Such independent activities include traveling to or
 248 from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
 249 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
 250 § 16.1-278.4;

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

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

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

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

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

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

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

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

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

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

286 "Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in
 287 § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or
 288 advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his
 289 rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation"
 290 includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure
 291 to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition,
 292 possession, or control of an adult's financial resources or property through the use of undue influence,
 293 coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services
 294 against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or
 295 defrauded into agreeing, to pay for such goods or services or to perform such services.

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

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

305 such treatment or care is performed in good faith and in accordance with the religious practices of the adult
306 and there is a written or oral expression of consent by that adult.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

366 "Children's residential facility" means any facility, child-caring institution, or group home that is

367 maintained for the purpose of receiving children separated from their parents or guardians for full-time care,
 368 maintenance, protection and guidance, or for the purpose of providing independent living services to persons
 369 between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's
 370 residential facility shall not include:

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

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

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

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

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

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

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

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

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

394 "Federal-Funded Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C.
 395 § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with
 396 § 63.2-1305, payments to eligible individuals who have received custody of a child of whom they had been
 397 the foster parents.

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

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

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

412 "General relief" means money payments and other forms of relief made to those persons mentioned in
 413 § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

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

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

425 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the
 426 custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency
 427 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
 428 Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a

429 living arrangement in which such child or person does not have daily substitute parental supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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