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HOUSE BILL NO. 1313

Offered January 10, 2024

A BILL to amend and reenact §§ 16.1-228, 63.2-100, 63.2-901.1, 63.2-905.1:1, 63.2-917, 63.2-918, 63.2-919, and 63.2-922 of the Code of Virginia, relating to Fostering Futures program; eligibility; age limit.

Patrons—Tata and Glass

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 63.2-100, 63.2-901.1, 63.2-905.1:1, 63.2-917, 63.2-918, 63.2-919, and 63.2-922 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.

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

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

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

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

74 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for
75 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of
76 Title 63.2, younger than ~~21~~ 23 years of age and meets the eligibility criteria set forth in § 63.2-919.

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

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

91 "Child in need of supervision" means:

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

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

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

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

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

115 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
116 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
117 terminated under the provisions of § 16.1-269.6.

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

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

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

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

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

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

153 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
 154 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
 155 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and ~~24~~ 23 who was
 156 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
 157 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
 158 parental supervision.

159 "Independent living services" means services and activities provided to a child in foster care 14 years
 160 of age or older and who has been committed or entrusted to a local board of social services, child
 161 welfare agency, or private child-placing agency. "Independent living services" may also mean services
 162 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet
 163 reached the age of ~~24~~ 23 years; (ii) is between the ages of 18 and ~~24~~ 23 and who, immediately prior to
 164 his commitment to the Department of Juvenile Justice, was in the custody of a local board of social
 165 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and ~~24~~ 23 who
 166 was committed to the Department of Juvenile Justice immediately prior to placement in an independent
 167 living arrangement. "Independent living services" includes counseling, education, housing, employment,
 168 and money management skills development and access to essential documents and other appropriate
 169 services to help children or persons prepare for self-sufficiency.

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

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

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

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

180 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to
 181 have physical custody of the child, to determine and redetermine where and with whom he shall live,

182 the right and duty to protect, train and discipline him and to provide him with food, shelter, education
 183 and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal
 184 status created by court order of joint custody as defined in § 20-107.2.

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

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

196 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
 197 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
 198 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
 199 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
 200 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
 201 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
 202 outreach with the child's family members, including efforts to maintain connections between the child
 203 and his siblings and other family; documents and maintains records of such outreach efforts; and
 204 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
 205 appropriate and in the best interest of the child, facilitates participation by family members in the child's
 206 treatment program before and after discharge and documents the manner in which such participation is
 207 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
 208 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
 209 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
 210 any child placed in the program receive an assessment within 30 days of such placement by a qualified
 211 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
 212 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
 213 identifies whether the needs of the child can be met through placement with a family member or in a
 214 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
 215 residential treatment program, that would provide the most effective and appropriate level of care for the
 216 child in the least restrictive environment and be consistent with the short-term and long-term goals
 217 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
 218 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
 219 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
 220 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

234 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
 235 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

236 **§ 63.2-100. Definitions.**

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

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

239 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
 240 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
 241 accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental
 242 functions, including, but not limited to, a child who is with his parent or other person responsible for his
 243 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled

244 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person
 245 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would
 246 constitute a felony violation of § 18.2-248;

247 2. Whose parents or other person responsible for his care neglects or refuses to provide care
 248 necessary for his health. However, no child who in good faith is under treatment solely by spiritual
 249 means through prayer in accordance with the tenets and practices of a recognized church or religious
 250 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a
 251 decision by parents who have legal authority for the child or, in the absence of parents with legal
 252 authority for the child, any person with legal authority for the child, who refuses a particular medical
 253 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary
 254 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;
 255 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the
 256 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have
 257 considered alternative treatment options; and (iv) the parents or other person with legal authority and the
 258 child believe in good faith that such decision is in the child's best interest. No child whose parent or
 259 other person responsible for his care allows the child to engage in independent activities without adult
 260 supervision shall for that reason alone be considered to be an abused or neglected child, provided that
 261 (a) such independent activities are appropriate based on the child's age, maturity, and physical and
 262 mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent
 263 as to endanger the health or safety of the child. Such independent activities include traveling to or from
 264 school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a
 265 reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of
 266 § 16.1-278.4;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

358 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
359 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 24 23 years of
360 age and meets the eligibility criteria set forth in § 63.2-919.

361 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
362 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
363 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
364 parents with the process of delegating parental and legal custodial powers of their children pursuant to
365 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
366 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title

367 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
368 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

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

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

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

379 "Children's residential facility" means any facility, child-caring institution, or group home that is
380 maintained for the purpose of receiving children separated from their parents or guardians for full-time
381 care, maintenance, protection and guidance, or for the purpose of providing independent living services
382 to persons between 18 and ~~21~~ 23 years of age who are in the process of transitioning out of foster care.
383 Children's residential facility shall not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

427 "General relief" means money payments and other forms of relief made to those persons mentioned

428 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with §
429 63.2-401.

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

438 "Independent living" means a planned program of services designed to assist a child age 16 and over
439 and persons who are former foster care children or were formerly committed to the Department of
440 Juvenile Justice and are between the ages of 18 and ~~24~~ 23 in transitioning to self-sufficiency.

441 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
442 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
443 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and ~~24~~ 23 who was
444 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
445 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
446 parental supervision.

447 "Independent living services" means services and activities provided to a child in foster care 14 years
448 of age or older who was committed or entrusted to a local board of social services, child welfare
449 agency, or private child-placing agency. "Independent living services" may also mean services and
450 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
451 the age of ~~24~~ 23 years; (ii) is between the ages of 18 and ~~24~~ 23 and who, immediately prior to his
452 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
453 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and ~~24~~ 23 who
454 was committed to the Department of Juvenile Justice immediately prior to placement in an independent
455 living arrangement. Such services shall include counseling, education, housing, employment, and money
456 management skills development, access to essential documents, and other appropriate services to help
457 children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

489 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the

490 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
491 care; and general relief.

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

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

502 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
503 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
504 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
505 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
506 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
507 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
508 outreach with the child's family members, including efforts to maintain connections between the child
509 and his siblings and other family; documents and maintains records of such outreach efforts; and
510 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
511 appropriate and in the best interest of the child, facilitates participation by family members in the child's
512 treatment program before and after discharge and documents the manner in which such participation is
513 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
514 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
515 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
516 any child placed in the program receive an assessment within 30 days of such placement by a qualified
517 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
518 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
519 identifies whether the needs of the child can be met through placement with a family member or in a
520 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
521 residential treatment program, that would provide the most effective and appropriate level of care for the
522 child in the least restrictive environment and be consistent with the short-term and long-term goals
523 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
524 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
525 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
526 16.1-282.1, or 16.1-282.2.

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

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

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

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

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

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

549 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
550 Department through which a relative can receive monthly cash assistance for the support of his eligible

551 children.

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

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

559 **§ 63.2-901.1. Criminal history and central registry check for placements of children.**

560 A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations
561 adopted by the Board, criminal history record information from the Central Criminal Records Exchange
562 and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results
563 of a search of the child abuse and neglect central registry of any individual with whom the local board
564 or licensed child-placing agency is considering placing a child on an emergency, temporary or
565 permanent basis, including the birth parent of a child in foster care placement, unless the birth parent
566 has revoked an entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth
567 parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians
568 pursuant to § 63.2-900. The local board or licensed child-placing agency shall also obtain such
569 background checks on all adult household members residing in the home of the individual with whom
570 the child is to be placed pursuant to subsection B. Such state criminal records or registry search shall be
571 at no cost to the individual. The local board or licensed child-placing agency shall pay for the national
572 fingerprint criminal history record check or may require such individual to pay the cost of the
573 fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees
574 assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for
575 responding to requests required by this section.

576 B. Background checks pursuant to this section require the following:

577 1. A sworn statement or affirmation disclosing whether or not the individual has a criminal
578 conviction or is the subject of any pending criminal charges within or outside the Commonwealth and
579 whether or not the individual has been the subject of a founded complaint of child abuse or neglect
580 within or outside the Commonwealth;

581 2. That the individual submit to fingerprinting and provide personal descriptive information to be
582 forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the
583 Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The
584 local board or licensed child-placing agency shall inform the individual that he is entitled to obtain a
585 copy of any background check report and to challenge the accuracy and completeness of any such report
586 and obtain a prompt resolution before a final decision is made of the individual's fitness to have
587 responsibility for the safety and well-being of children.

588 The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no
589 record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an
590 individual's record lacking disposition data, conduct research in whatever state and local recordkeeping
591 systems are available in order to obtain complete data. The state agency shall report to the local board
592 or licensed child-placing agency whether the individual meets the criteria for having responsibility for
593 the safety and well-being of children based on whether or not the individual has ever been convicted of
594 or is the subject of pending charges for any barrier crime as defined in § 19.2-392.02. Copies of any
595 information received by a local board or licensed child-placing agency pursuant to this section shall be
596 available to the state agency that regulates or operates such a child-placing agency but shall not be
597 disseminated further; and

598 3. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of
599 child abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any
600 other state pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in
601 which a prospective parent or other adult in the home has resided in the preceding five years.

602 C. In emergency circumstances, each local board may obtain, from a criminal justice agency,
603 criminal history record information from the Central Criminal Records Exchange and the Federal Bureau
604 of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records
605 search authorized by this section. Within three days of placing a child, the local board shall require the
606 individual for whom a criminal history record information check was requested to submit to
607 fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints
608 through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose
609 of obtaining criminal record history information, pursuant to subsection B. The child shall be removed
610 from the home immediately if any adult resident fails to provide such fingerprints and written
611 permission to perform a criminal history record check when requested.

612 D. Any individual with whom the local board is considering placing a child on an emergency basis

613 shall submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam Walsh
 614 Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or
 615 neglect. The search of the central registry must occur prior to emergency placement. Such central
 616 registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall
 617 provide a written statement of affirmation disclosing whether he has ever been the subject of a founded
 618 case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not
 619 approve individuals with a founded complaint of child abuse as foster or adoptive parents.

620 E. The child-placing agency shall not approve a foster or adoptive home if any individual has been
 621 convicted of any barrier crime as defined in § 19.2-392.02 or is the subject of a founded complaint of
 622 abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42 U.S.C.S. 16901 et seq. A
 623 child-placing agency may approve as a foster parent an applicant who has been convicted of not more
 624 than one misdemeanor as set out in § 18.2-57, or any substantially similar offense under the laws of
 625 another jurisdiction, not involving the abuse, neglect, or moral turpitude of a minor, provided that 10
 626 years have elapsed following the conviction.

627 F. A local board or child-placing agency may approve as a kinship foster care parent an applicant
 628 who has been convicted of the following offenses, provided that 10 years have elapsed from the date of
 629 the conviction and the local board or child-placing agency makes a specific finding that approving the
 630 kinship foster care placement would not adversely affect the safety and well-being of the child: (i) any
 631 offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 or (ii) any
 632 misdemeanor offense under § 18.2-80, 18.2-81, 18.2-83, 18.2-87, 18.2-87.1, or 18.2-88 or any
 633 substantially similar offense under the laws of another jurisdiction.

634 G. Any individual participating in the Fostering Futures program, which allows local departments to
 635 continue to provide foster care services to individuals who are 18 years of age or older but have not
 636 reached ~~24~~ 23 years of age, who is placed in a foster home shall be subject to the background check
 637 requirements set forth in subsection B. The results of such background check shall be used for the sole
 638 purpose of determining whether other children should be placed or remain in the same foster home as
 639 the individual subject to the background check. The results of the background check shall not be used to
 640 terminate or suspend the approval of the foster home pursuant to subsection E. For purposes of this
 641 subsection, "individual participating in the Fostering Futures program" means a person who is 18 years
 642 of age or older but has not reached ~~24~~ 23 years of age and is receiving foster care services through the
 643 Fostering Futures program.

644 **§ 63.2-905.1:1. Housing services.**

645 Local departments shall provide housing support for a period of no more than six months to any
 646 person who (i) is 18 years of age or older but less than ~~24~~ 23 years of age, (ii) on or after July 1, 2022,
 647 (a) turned 18 years of age while in foster care under the custody of a local department or (b) turned 18
 648 years of age while in the custody of the Department of Juvenile Justice and was in the custody of a
 649 local department immediately prior to commitment to the Department of Juvenile Justice and is
 650 transitioning from such commitment to self-sufficiency, and (iii) declines to participate in the Fostering
 651 Futures program pursuant to § 63.2-919. Such housing support shall be equal to the room and board
 652 portion of the maintenance payment that such person would otherwise receive for housing support
 653 through participation in the Fostering Futures program. The local department may send such payments
 654 directly to the housing provider or to the person receiving housing support, as agreed upon by the local
 655 department and the recipient. Policies and decisions regarding housing options shall take into
 656 consideration the recipient's autonomy, developmental maturity, and safety needs.

657 Local departments shall provide any person who chooses to decline or terminate such housing
 658 support prior to the person's twenty-first birthday written notice of the person's right to request
 659 restoration of housing support in accordance with this section. Such notice shall be included in the
 660 person's transition plan, which shall be created within 90 days prior to the person's discharge from foster
 661 care.

662 **§ 63.2-917. Fostering Futures program; established.**

663 The Fostering Futures program is established to provide services and support to individuals 18 years
 664 of age or older but less than ~~24~~ 23 years of age who were in foster care upon turning 18 years of age.
 665 Such services and support shall be designed to assist the program participant in transitioning to
 666 adulthood, becoming self-sufficient, and creating permanent, positive relationships. The program is
 667 voluntary and shall at all times recognize and respect the autonomy of the participant. The Fostering
 668 Futures program shall not be construed to abrogate any other rights that a person 18 years of age or
 669 older may have as an adult under state law.

670 **§ 63.2-918. Definitions.**

671 For purposes of this article:

672 "Case plan" means the plan developed by the local department for a program participant in
 673 accordance with 42 U.S.C. § 675(1).

674 "Child" means an individual who is (i) less than 18 years of age or (ii) for purposes of the Fostering
675 Futures program set forth in this article, less than ~~21~~ 23 years of age and meets the eligibility criteria set
676 forth in § 63.2-919.

677 "Fostering Futures" means the services and support available to individuals between 18 and ~~21~~ 23
678 years of age who are participating in the Fostering Futures program.

679 "Local department" means the local department of social services under the local board having care
680 and custody of the program participant when he reached 18 years of age.

681 "Program participant" means an individual who meets the eligibility criteria set forth in § 63.2-919.

682 "Voluntary continuing services and support agreement" means a binding written agreement entered
683 into by the local department and program participant in accordance with § 63.2-921.

684 **§ 63.2-919. Fostering Futures program; eligibility.**

685 The Fostering Futures program is available, on a voluntary basis, to an individual between 18 and ~~21~~
686 23 years of age who:

687 1. Was (i) in the custody of a local department immediately prior to reaching 18 years of age,
688 remained in foster care upon turning 18 years of age, and entered foster care pursuant to a court order;
689 or (ii) in the custody of a local department immediately prior to commitment to the Department of
690 Juvenile Justice and is transitioning from such commitment to self-sufficiency; and

691 2. Is (i) completing secondary education or an equivalent credential; (ii) enrolled in an institution that
692 provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv)
693 participating in a program or activity designed to promote employment or remove barriers to
694 employment; or (v) incapable of doing any of the activities described in clauses (i) through (iv) due to a
695 medical condition, which incapability is supported by regularly updated information in the program
696 participant's case plan.

697 **§ 63.2-922. Termination of voluntary continuing services and support agreement; notice; appeal.**

698 A. A program participant may terminate the voluntary continuing services and support agreement at
699 any time. Upon such termination, the local department shall provide the program participant with a
700 written notice informing the program participant of the potential negative effects resulting from
701 termination, the option to reenter the Fostering Futures program at any time before reaching ~~21~~ 23 years
702 of age, and the procedures for reentering if the participant meets the eligibility criteria of § 63.2-919.

703 B. If the local department determines that the program participant is no longer eligible to participate
704 in the Fostering Futures program under § 63.2-919, the local department shall terminate the voluntary
705 continuing services and support agreement and cease the provision of all services and support to the
706 program participant. The local department shall give written notice to the program participant 30 days
707 prior to termination that the voluntary continuing services and support agreement will be terminated and
708 provide (i) an explanation of the basis for termination, (ii) information about the process for appealing
709 the termination, (iii) information about the option to enter into another voluntary continuing services and
710 support agreement once the program participant reestablishes eligibility under § 63.2-919, and (iv)
711 information about and contact information for community resources that may benefit the program
712 participant, including state programs established pursuant to 42 U.S.C. § 677. Academic breaks in
713 postsecondary education attendance, such as semester and seasonal breaks, and other transitions between
714 eligibility requirements under § 63.2-919, including education and employment transitions not longer
715 than 30 days, shall not be a basis for termination.

716 C. Appeals of terminations of voluntary continuing services and support agreements or denials or
717 delays of the provision of services specified in the agreement shall be conducted in accordance with the
718 provisions of § 63.2-915 and Board regulations.