

046617344

HOUSE BILL NO. 861

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 16.1-281, 16.1-282, 16.1-282.1 and 63.2-100 of the Code of Virginia, relating to permanency planning for children in foster care.

 Patron—Ingram

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-281, 16.1-282, 16.1-282.1 and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services or a public agency designated by the community policy and management team places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services, the public agency designated or child welfare agency or the family assessment and planning team established pursuant to § 2.2-5207 shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section. The representatives of such department, agency, or team shall consult with the child's parent(s), except when parental rights have been terminated or the local department of social services or other designated agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the public agency placed the child, concerning the matters which should be included in such plan. The department, public agency, child welfare agency or team shall file the plan with the juvenile and domestic relations district court within ~~sixty~~ 60 days following the transfer of custody or the board's or public agency's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional ~~sixty~~ 60 days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within ~~sixty~~ 60 days following transfer of custody to the board or agency or the board's or public agency's placement of the child.

B. The foster care plan shall describe (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians; (iv) the nature of the placement or placements which will be provided for the child; and (v) in writing and where appropriate for children age ~~sixteen~~ 14 or over, the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

If the department, child welfare agency or team concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (a) include a full description of the reasons for this conclusion; (b) provide information on the opportunities for placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible; (d) explain why permanent foster care, independent living for a child ~~sixteen~~ 14 years of age or older or continued foster care is the plan for the child. "Independent living" includes the services and programs needed to assist the child in making a transition from foster care to self-sufficiency. The department or agency may include with such proposed plan a petition seeking the termination of residual parental rights pursuant to § 16.1-283.

The local board or other child welfare agency having custody of the child shall not be required by

INTRODUCED

HB861

59 the court to make reasonable efforts to reunite the child with a parent if the court finds that (1) the
60 residual parental rights of the parent regarding a sibling of the child have previously been involuntarily
61 terminated; (2) the parent has been convicted of an offense under the laws of this Commonwealth or a
62 substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes
63 murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such
64 offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at
65 the time such offense occurred or the other parent of the child; (3) the parent has been convicted of an
66 offense under the laws of this Commonwealth or a substantially similar law of any other state, the
67 United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury
68 or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the
69 offense was a child of the parent or a child with whom the parent resided at the time of such offense; or
70 (4) based on clear and convincing evidence, the parent has subjected any child to aggravated
71 circumstances, or abandoned a child under circumstances which would justify the termination of residual
72 parental rights pursuant to subsection D of § 16.1-283.

73 As used in this section:

74 "Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual
75 abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at
76 the time such conduct occurred, including the failure to protect such a child from such conduct, which
77 conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has
78 resulted in the death of such a child or in serious bodily injury to such a child.

79 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the
80 child's health, safety and well-being at risk.

81 "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical
82 pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily
83 member, organ or mental faculty.

84 "Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but
85 otherwise meets the definition of "aggravated circumstances."

86 Within ~~thirty~~ 30 days of making a determination that reasonable efforts to reunite the child with the
87 parents are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

88 C. A copy of the entire foster care plan shall be sent by the court to the child, if he is ~~twelve~~ 12
89 years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any
90 other person standing in loco parentis at the time the board or child welfare agency obtained custody or
91 the board or public agency placed the child, to the parents or other person standing in loco parentis, and
92 such other persons as appear to the court to have a proper interest in the plan. However, a copy of the
93 plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A
94 copy of the plan, excluding the section of the plan describing the reasons why the child cannot be
95 returned home and the alternative chosen, shall be sent by the court to the foster parents. A hearing
96 shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held
97 within ~~seventy-five~~ 75 days of (i) the child's initial foster care placement, if the child was placed
98 through an agreement between the parents or guardians and the local department of social services, other
99 public agency or a child welfare agency; (ii) the original preliminary removal order hearing, if the child
100 was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for relief of custody, if
101 the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the dispositional hearing at which
102 the child was placed in foster care and an order was entered pursuant to §§ 16.1-278.2, 16.1-278.3,
103 16.1-278.4, 16.1-278.5, 16.1-278.6 or § 16.1-278.8. However, the hearing shall be held in accordance
104 with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. If the
105 judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the
106 court to all persons who received a copy of the original of that part of the plan.

107 C1. Any order transferring custody of the child to a relative other than the child's prior family shall
108 be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one
109 who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified
110 to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child;
111 (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the
112 ability to protect the child from abuse and neglect; and the order shall so state. The court's order
113 transferring custody to a relative should further provide for, as appropriate, any terms or conditions
114 which would promote the child's interest and welfare; ongoing provision of social services to the child
115 and the child's custodian; and court review of the child's placement.

116 C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent
117 goal for the child by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02,
118 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of
119 § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve
120 independent living status, if the child has attained the age of ~~sixteen~~ 14 years, pursuant to subdivision A

v of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board or public agency placed the child.

E. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within six months in accordance with § 16.1-282. However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within ~~twelve~~ 12 months of the entry of such order in accordance with the provisions of § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § 16.1-263.

F. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services or the public agency designated by the community policy and management team on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

§ 16.1-282. Foster care review.

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a foster care review hearing shall be held within six months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child: (a) was placed through an agreement between the parents or guardians and the local board of social services or a public agency designated by the community policy and management team where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights granted, filed or ordered to be filed on the child's behalf; has not been placed in permanent foster care; or is not receiving services to achieve independent living status.

Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's or public agency's placement of the child or the board's or child welfare agency's assumption of legal custody, may file with the court the petition for a foster care review hearing hereinafter described at any time after the initial foster care placement of the child. However, the board, public agency or child welfare agency shall file the petition within five months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281.

B. The petition shall:

1. Be filed in the court in which the foster care plan for the child was reviewed and approved. Upon the order of such court, however, the petition may be filed in the court of the county or city in which the board or child welfare agency having legal custody or having placed the child has its principal office or where the child resides;

2. State, if such is reasonably obtainable, the current address of the child's parents and, if the child was in the custody of a person or persons standing in loco parentis at the time the board or child welfare agency obtained legal custody or the board or public agency placed the child, of such person or persons;

3. Describe the placement or placements provided for the child while in foster care and the services or programs offered to the child and his parents and, if applicable, the persons previously standing in loco parentis;

4. Describe the nature and frequency of the contacts between the child and his parents and, if applicable, the persons previously standing in loco parentis;

5. Set forth in detail the manner in which the foster care plan previously filed with the court was or was not complied with and the extent to which the goals thereof have been met; and

6. Set forth the disposition sought and the grounds therefor; however, if a continuation of foster care is recommended, a foster care plan for such period of continued foster care shall also be included and shall address (i) the role the current foster parents or other care providers will play in the future planning for the child and (ii) in the case of a child who has attained age ~~sixteen~~ 14, the services and programs needed to assist the child to make a transition from foster care to independent living.

C. Upon receipt of the petition filed by the board, public agency, child welfare agency, or any interested party as provided in subsection B of this section, the court shall schedule a hearing to be held within ~~thirty~~ 30 days if a hearing was not previously scheduled. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

182 1. The child, if he is ~~twelve~~ 12 years of age or older;
183 2. The attorney-at-law representing the child as guardian ad litem;
184 3. The child's parents and, if the child was in the custody of a person standing in loco parentis at the
185 time the department obtained custody, such person or persons. No such notification shall be required,
186 however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably
187 ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable
188 shall be sufficient evidence of this fact, provided there is no other evidence before the court which
189 would refute such an affidavit. If the parent or guardian of the child did not appear at the dispositional
190 hearing and was not noticed to return for the foster care review hearing in accordance with subsection E
191 of § 16.1-281, the parent or guardian shall be summoned to appear at the foster care review hearing in
192 accordance with § 16.1-263. The review hearing shall be held pursuant to this section although a parent
193 or guardian fails to appear and is not represented by counsel, provided personal or substituted service
194 was made on the parent or guardian, or the court determines that such person cannot be found, after
195 reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be
196 found or his post office address cannot be ascertained after reasonable effort;

197 4. The foster parent or foster parents or other care providers of the child;

198 5. The petitioning board, public agency or child welfare agency; and

199 6. Such other persons as the court, in its discretion, may direct. The local board of social services or
200 other child welfare agency shall identify for the court such other persons as have a legitimate interest in
201 the hearing, including, but not limited to, preadoptive parents for a child in foster care.

202 D. At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the
203 best interests of the child and subject to the provisions of subsection D1, enter any appropriate order of
204 disposition consistent with the dispositional alternatives available to the court at the time of the original
205 hearing. The court order shall state whether reasonable efforts, if applicable, have been made to reunite
206 the child with his parents, guardian or other person standing in loco parentis to the child. Any order
207 entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the child
208 by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or
209 § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1;
210 or by directing the board or agency to provide the child with services to achieve independent living
211 status, if the child has attained the age of ~~sixteen~~ 14 years, pursuant to subdivision A v of § 16.1-282.1
212 shall state whether reasonable efforts have been made to place the child in a timely manner in
213 accordance with the foster care plan and to complete the steps necessary to finalize the permanent
214 placement of the child.

215 D1. Any order transferring custody of the child to a relative other than the child's prior family shall
216 be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one
217 who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified
218 to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child;
219 (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the
220 ability to protect the child from abuse and neglect; and the order shall so state. The court's order
221 transferring custody to a relative should further provide for, as appropriate, any terms and conditions
222 which would promote the child's interest and welfare; ongoing provision of social services to the child
223 and the child's custodian; and court review of the child's placement.

224 E. The court shall possess continuing jurisdiction over cases reviewed under this section for so long
225 as a child remains in a foster care placement or, when a child is returned to his prior family subject to
226 conditions imposed by the court, for so long as such conditions are effective. After the hearing required
227 pursuant to subsection C, the court shall schedule a permanency planning hearing on the case to be held
228 five months thereafter in accordance with § 16.1-282.1 or within ~~thirty~~ 30 days upon the petition of any
229 party entitled to notice in proceedings under this section when the judge determines there is good cause
230 shown for such a hearing. However, in the case of a child who is the subject of an order that has the
231 effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to
232 §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care
233 pursuant to subdivision A iv of § 16.1-282.1; or by directing the board or agency to provide the child
234 with services to achieve independent living status, if the child has attained the age of ~~sixteen~~ 14 years,
235 pursuant to subdivision A v of § 16.1-282.1, a permanency planning hearing within five months shall
236 not be required and the court shall schedule a foster care review hearing to be held within ~~twelve~~ 12
237 months of the entry of such order in accordance with the provisions of § 16.1-282.2.

238 § 16.1-282.1. Permanency planning hearing for children in foster care.

239 A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to
240 § 16.1-281, a permanency planning hearing shall be held within ~~eleven~~ 11 months of the dispositional
241 hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed
242 through an agreement between the parents or guardians and the local board of social services or a public
243 agency designated by the community policy and management team where legal custody remains with the

parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is not receiving services to achieve independent living status. The board, public agency or child welfare agency shall file a petition for a permanency planning hearing within ~~ten~~ 10 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's or public agency's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or § 16.1-283; (iv) place the child in permanent foster care pursuant to § 63.2-908; (v) direct the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of ~~sixteen~~ 14 years; or (vi) place the child in another planned permanent living arrangement in accordance with the provisions of subsection A2.

For approval of an interim plan, the petition for a permanency planning hearing shall seek to continue custody with the board or agency, or continue placement with the board or public agency through a parental agreement; or transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within ~~thirty~~ 30 days. The permanency planning hearing shall be held within ~~eleven~~ 11 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family in accordance with the provisions of (ii) of subsection A of this section. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with clause (vi) of subsection A of this section.

1. The board, public agency or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board, public agency or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment.

2. Before approving alternative (vi) of subsection A of this section as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A of this

section is the permanent plan, the court shall schedule a hearing to be held within six months to review the child's placement in another planned permanent living arrangement in accordance with subdivision 4 of subsection A2. All parties present at the hearing at which clause (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board, public agency or child welfare agency. The board, public agency or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision 1 of subsection A2 of this section. The petition for foster care review shall be filed no later than thirty days prior to the hearing scheduled in accordance with subdivision 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A of this section remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within thirty days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A of this section. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within ~~thirty~~ 30 days. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to proceedings under this section.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A.

1. The board, public agency or child welfare agency shall petition for approval of an interim plan only if the board, public agency or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for approval of an interim plan, such plan may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at this time.

2. Before approving an interim plan for the child, the court shall find:

a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board, public agency or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing.

3. Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv) or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.

C. At the conclusion of the permanency planning hearing held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with the child's prior family, if returning home is the permanent goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board or agency, if the goal is other than returning the child home.

In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

§ 63.2-100. Definitions.

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

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

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions;

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;

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

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

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.

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

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

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult.

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

"Adult exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being.

"Adult protective services" means services provided by the local department that are necessary to protect an adult from abuse, neglect or exploitation.

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

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

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

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

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

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

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

434 "Child" means any natural person under 18 years of age.

435 "Child day center" means a child day program offered to (i) two or more children under the age of
436 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or
437 more children at any location.

438 "Child day program" means a regularly operating service arrangement for children where, during the
439 absence of a parent or guardian, a person or organization has agreed to assume responsibility for the
440 supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

441 "Child-placing agency" means any person who places children in foster homes, adoptive homes or
442 independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster
443 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903 and 63.2-1221. Officers, employees, or
444 agents of the Commonwealth, or any locality acting within the scope of their authority as such, who
445 serve as or maintain a child-placing agency, shall not be required to be licensed.

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

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

454 "Child-welfare agency" means a child day center, child-placing agency, children's residential facility,
455 family day home, family day system, or independent foster home.

456 "Children's residential facility" means any facility, child-caring institution, or group home that is
457 maintained for the purpose of receiving children separated from their parents or guardians for full-time
458 care, maintenance, protection and guidance, except:

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

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

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

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

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

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

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

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

478 "Family day home" means a child day program offered in the residence of the provider or the home
479 of any of the children in care for one through twelve children under the age of 13, exclusive of the
480 provider's own children and any children who reside in the home, when at least one child receives care
481 for compensation. The provider of a licensed or registered family day home shall disclose to the parents
482 or guardians of children in their care the percentage of time per week that persons other than the
483 provider will care for the children. Family day homes serving six through ~~twelve~~ 12 children, exclusive
484 of the provider's own children and any children who reside in the home, shall be licensed. However, no
485 family day home shall care for more than four children under the age of two, including the provider's
486 own children and any children who reside in the home, unless the family day home is licensed or
487 voluntarily registered. However, a family day home where the children in care are all grandchildren of
488 the provider shall not be required to be licensed.

489 "Family day system" means any person who approves family day homes as members of its system;

who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the community policy and management team where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

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

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8.

"Independent living" means a program of services and activities for children in foster care who are 16 1/4 years of age or older, and persons who are former foster care children between the ages of 18 and 21, that prepares them for the successful transition from foster care to self sufficiency.

"Independent living placement" means placement of a child at least 16 1/4 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

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

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

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

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

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

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

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

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

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

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

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

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

555 "Social services" means foster care, adoption, adoption assistance, adult services, adult protective
556 services, child-protective services, domestic violence services, or any other services program
557 implemented in accordance with regulations adopted by the Board.

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

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

564 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the
565 Temporary Assistance for Needy Families program for families in which both natural or adoptive
566 parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for
567 Employment Not Welfare (VIEW) participation under § 63.2-609.

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