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HOUSE BILL NO. 1321

Offered January 9, 2008

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A *BILL to amend and reenact §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 63.2-100, 63.2-904, 63.2-905, 63.2-905.1, and 63.2-1819 of the Code of Virginia, relating to foster care living arrangements for child 16 years of age or older; opt-out option.*

Patron—Toscano

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 63.2-100, 63.2-904, 63.2-905, 63.2-905.1, and 63.2-1819 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"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;

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 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; or

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 § 55-79.2, 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 violent sexual offender pursuant to § 9.1-902.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or rescue squad, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

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

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

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

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile" or "minor" means a person less than 18 years of age.

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

INTRODUCED

HB1321

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

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

73 "Child in need of supervision" means:

74 1. A child who, while subject to compulsory school attendance, is habitually and without justification
75 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
76 any and all educational services and programs that are required to be provided by law and which meet
77 the child's particular educational needs, (ii) the school system from which the child is absent or other
78 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
79 and (iii) the school system has provided documentation that it has complied with the provisions of
80 § 22.1-258; or

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

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

90 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an
91 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of
92 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an
93 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
94 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to
95 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or
96 town.

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

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

103 "Family abuse" means any act involving violence, force, or threat including, but not limited to, any
104 forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily
105 injury and which is committed by a person against such person's family or household member.

106 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
107 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
108 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
109 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
110 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,
111 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)
112 any individual who has a child in common with the person, whether or not the person and that
113 individual have been married or have resided together at any time, or (vi) any individual who cohabits
114 or who, within the previous 12 months, cohabited with the person, and any children of either of them
115 then residing in the same home with the person.

116 "Foster care services" means the provision of a full range of casework, treatment and community
117 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or
118 in need of services as defined in this section and his family when the child (i) has been identified as
119 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through
120 an agreement between the local board of social services or a public agency designated by the

community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of a child at least 16 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 living services" means services and activities provided to: (i) a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency or (ii) a person who was in foster care on his 18th birthday and has not yet reached 21 years of age. Such services may include counseling, education, financial, housing, employment skills development, and access to essential documents and other appropriate services to help children and persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 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.

182 The representatives of such department, agency, or team shall involve the child's parent(s) in the
183 development of the plan, except when parental rights have been terminated or the local department of
184 social services or other designated agency has made diligent efforts to locate the parent(s) and such
185 parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the
186 board or child welfare agency obtained custody or the board or the public agency placed the child. The
187 representatives of such department, agency, or team shall involve the child in the development of the
188 plan, if such involvement is consistent with the best interests of the child. In cases where either the
189 parent(s) or child is not involved in the development of the plan, the department, agency, or team shall
190 include in the plan a full description of the reasons therefor.

191 The department, public agency, child welfare agency or team shall file the plan with the juvenile and
192 domestic relations district court within 60 days following the transfer of custody or the board's or public
193 agency's placement of the child unless the court, for good cause shown, allows an extension of time,
194 which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance
195 with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster
196 care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home
197 within 60 days following transfer of custody to the board or agency or the board's or public agency's
198 placement of the child.

199 B. The foster care plan shall describe, *in writing*, (i) the programs, care, services and other support
200 which will be offered to the child and his parents and other prior custodians; (ii) the participation and
201 conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and
202 other contacts which will be permitted between the child and his parents and other prior custodians; (iv)
203 the nature of the placement or placements which will be provided for the child; and (v) in writing and
204 where appropriate for children age 16 or over, the programs and services which will help the child
205 prepare for the transition from foster care to independent living. If consistent with the child's health and
206 safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to
207 his parents or other prior custodians within the shortest practicable time which shall be specified in the
208 plan. The child's health and safety shall be the paramount concern of the court and the agency
209 throughout the placement, case planning, service provision and review process.

210 If the department, child welfare agency or team concludes that it is not reasonably likely that the
211 child can be returned to his prior family within a practicable time, consistent with the best interests of
212 the child, in a separate section of the plan the department, child welfare agency or team shall (a) include
213 a full description of the reasons for this conclusion; (b) provide information on the opportunities for
214 placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's
215 successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in
216 an adoptive home within the shortest practicable time, and if neither of such placements is feasible; (d)
217 explain why permanent foster care, independent living for a child 16 years of age or older, or continued
218 foster care is the plan for the child. "Independent living," ~~includes the services and programs needed to~~
219 ~~assist the child in making a transition from foster care to self-sufficiency as used in this section, shall~~
220 ~~have the same meaning as in § 63.2-100.~~ The department or agency may include with such proposed
221 plan a petition seeking the termination of residual parental rights pursuant to § 16.1-283.

222 The local board or other child welfare agency having custody of the child shall not be required by
223 the court to make reasonable efforts to reunite the child with a parent if the court finds that (1) the
224 residual parental rights of the parent regarding a sibling of the child have previously been involuntarily
225 terminated; (2) the parent has been convicted of an offense under the laws of the Commonwealth or a
226 substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes
227 murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such
228 offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at
229 the time such offense occurred or the other parent of the child; (3) the parent has been convicted of an
230 offense under the laws of the Commonwealth or a substantially similar law of any other state, the
231 United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury
232 or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the
233 offense was a child of the parent or a child with whom the parent resided at the time of such offense; or
234 (4) based on clear and convincing evidence, the parent has subjected any child to aggravated
235 circumstances, or abandoned a child under circumstances which would justify the termination of residual
236 parental rights pursuant to subsection D of § 16.1-283.

237 As used in this section:

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

243 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the

child's health, safety and well-being at risk.

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

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

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

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

C1. 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 for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3 or 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 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 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.

305 A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to
306 § 16.1-281, a foster care review hearing shall be held within six months of the dispositional hearing at
307 which the foster care plan pursuant to § 16.1-281 was reviewed if the child: (a) was placed through an
308 agreement between the parents or guardians and the local board of social services or a public agency
309 designated by the community policy and management team where legal custody remains with the parents
310 or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody
311 of a local board of social services or a child welfare agency and has not had a petition to terminate
312 parental rights granted, filed or ordered to be filed on the child's behalf; has not been placed in
313 permanent foster care; or (c) is not receiving services to ~~achieve independent living status~~*transition to an*
314 *independent living arrangement*.

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

321 B. The petition shall:

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

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

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

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

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

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

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

348 1. The child, if he is twelve years of age or older;

349 2. The attorney-at-law representing the child as guardian ad litem;

350 3. The child's parents and, if the child was in the custody of a person standing in loco parentis at the
351 time the department obtained custody, such person or persons. No such notification shall be required,
352 however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably
353 ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable
354 shall be sufficient evidence of this fact, provided there is no other evidence before the court which
355 would refute such an affidavit. If the parent or guardian of the child did not appear at the dispositional
356 hearing and was not noticed to return for the foster care review hearing in accordance with subsection E
357 of § 16.1-281, the parent or guardian shall be summoned to appear at the foster care review hearing in
358 accordance with § 16.1-263. The review hearing shall be held pursuant to this section although a parent
359 or guardian fails to appear and is not represented by counsel, provided personal or substituted service
360 was made on the parent or guardian, or the court determines that such person cannot be found, after
361 reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be
362 found or his post office address cannot be ascertained after reasonable effort;

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

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

365 6. Such other persons as the court, in its discretion, may direct. The local board of social services or
366 other child welfare agency shall identify for the court such other persons as have a legitimate interest in

the hearing, including, but not limited to, preadoptive parents for a child in foster care.

D. At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the best interests of the child and subject to the provisions of subsection D1, enter any appropriate order of disposition consistent with the dispositional alternatives available to the court at the time of the original hearing. The court order shall state whether reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child. Any order entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1; or, *if the child is 16 years or older and the plan for the child is independent living*, by directing the board or agency to provide the child with *necessary* services to *achieve independent living status*, ~~if the child has attained the age of sixteen years~~ *transition the child from foster care*, 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.

D1. 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 for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

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

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

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 permanency planning hearing shall be held within eleven 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 filed on the child's behalf, has not been placed in permanent foster care, or is ~~not receiving services to achieve independent living status~~ *age 16 or older and the plan for the child is not independent living*. The board, public agency or child welfare agency shall file a petition for a permanency planning hearing within ten 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) *if the child has attained the age of 16 or over and the plan is independent living*, 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 years~~ *transition from foster care to an independent living arrangement*; or

428 (vi) place the child in another planned permanent living arrangement in accordance with the provisions
429 of subsection A2.

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

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

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

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

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

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

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

481 4. The court shall review a foster care plan for any child who is placed in another planned
482 permanent living arrangement every six months from the date of the permanency planning hearing held
483 pursuant to this subsection, so long as the child remains in the legal custody of the board, public agency
484 or child welfare agency. The board, public agency or child welfare agency shall file such petitions for
485 review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the
486 information required by subdivision 1 of subsection A2 of this section. The petition for foster care
487 review shall be filed no later than thirty days prior to the hearing scheduled in accordance with
488 subdivision 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of
489 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 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.

§ 16.1-282.2. Annual foster care review.

A. The court shall review a foster care plan annually for any child who remains in the legal custody of a local board of social services or a child welfare agency and (i) on whose behalf a petition to terminate parental rights has been granted, filed or ordered to be filed, (ii) who is placed in permanent foster care, or (iii) who is ~~receiving services to achieve independent living status~~ *age 16 or older and for whom the plan is independent living*. The foster care review hearing shall be scheduled at the conclusion of a hearing held pursuant to §§ 16.1-281, 16.1-282 or § 16.1-282.1 at which the order is entered: terminating parental rights, directing the filing of a petition for termination of parental rights by the board or agency, placing the child in permanent foster care, or directing the board or agency to provide the child *age 16 or older for whom the plan is independent living* with services to ~~achieve independent living status~~ *transition from foster care*. The foster care review hearing shall be held within twelve months of the date of such order, so long as the child remains in the custody of the board or agency.

The board or agency shall file the petition for a foster care review hearing, and the court shall provide notice of the foster care review hearing in accordance with the provisions of § 16.1-282. The board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283, if applicable, with the petition required by this

section. The court order entered at the conclusion of the hearing held on the petition shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the approved foster care plan that established a permanent goal for the child and to complete the steps necessary to finalize the permanent placement of the child.

B. At the foster care review hearing in the case of a child who is placed in permanent foster care, the court shall give consideration to the appropriateness of the services being provided to the child and permanent foster parents, to any change in circumstances since the entry of the order placing the child in permanent foster care, and to such other factors as the court deems proper.

§ 63.2-100. Definitions.

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

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

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

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

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 § 55-79.2, 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 violent sexual offender pursuant to § 9.1-902.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or rescue squad, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

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

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

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

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

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

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

"Board" means the State Board of Social Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

698 "Family day home" means a child day program offered in the residence of the provider or the home
699 of any of the children in care for one through 12 children under the age of 13, exclusive of the
700 provider's own children and any children who reside in the home, when at least one child receives care
701 for compensation. The provider of a licensed or registered family day home shall disclose to the parents
702 or guardians of children in their care the percentage of time per week that persons other than the
703 provider will care for the children. Family day homes serving six through 12 children, exclusive of the
704 provider's own children and any children who reside in the home, shall be licensed. However, no family
705 day home shall care for more than four children under the age of two, including the provider's own
706 children and any children who reside in the home, unless the family day home is licensed or voluntarily
707 registered. However, a family day home where the children in care are all grandchildren of the provider
708 shall not be required to be licensed.

709 "Family day system" means any person who approves family day homes as members of its system;
710 who refers children to available family day homes in that system; and who, through contractual
711 arrangement, may provide central administrative functions including, but not limited to, training of
712 operators of member homes; technical assistance and consultation to operators of member homes;
713 inspection, supervision, monitoring, and evaluation of member homes; and referral of children to
714 available health and social services.

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

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

721 "General relief" means money payments and other forms of relief made to those persons mentioned
722 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with
723 § 63.2-401.

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

730 "Independent living" means a *planned* program of services ~~and activities for~~ *designed to assist*
731 children ~~in foster care~~ who are 16 years of age or older, and persons who are former foster care children
732 between the ages of 18 and 21, ~~that prepares them for the successful transition~~ *in transitioning* from
733 foster care to self sufficiency.

734 "Independent living placement arrangement" means placement of a child at least 16 years of age who
735 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 living services" means services and activities provided to: (i) a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency or (ii) a person who was in foster care on his 18th birthday and has not yet reached 21 years of age. Such services may include counseling, education, financial, housing, employment skills development, and access to essential documents and other appropriate services to help children and persons prepare for self-sufficiency.

"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.

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

"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.

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

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

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

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

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

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social

797 Security Act, as amended, and administered by the Department through which foster care is provided on
798 behalf of qualifying children.

799 § 63.2-904. Investigation, visitation and supervision of foster homes or independent living
800 arrangement; removal of child.

801 A. Before placing or arranging for the placement of any such child in a foster home or independent
802 living ~~placement~~arrangement, a local board or licensed child-placing agency shall cause a careful study
803 to be made to determine the suitability of such home or independent ~~placement~~living arrangement, and
804 after placement shall cause such home or independent ~~placement~~living arrangement and child to be
805 visited as often as necessary to protect the interests of such child.

806 B. Every local board or licensed child-placing agency that places a child in a foster home or
807 independent living ~~placement~~arrangement shall maintain such supervision over such home or
808 independent living ~~placement~~ arrangement as shall be required by the standards and policies established
809 by the Board.

810 C. Whenever any child placed by a local board or licensed child-placing agency and still under its
811 control or supervision is subject, in the home in which he is placed, to unwholesome influences or to
812 neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall
813 cause the child to be removed from such home and shall make for him such arrangements as may be
814 approved by the Commissioner.

815 § 63.2-905. Foster care services.

816 Foster care services are the provision of a full range of casework, treatment and community services,
817 including but not limited to independent living services, for a planned period of time to a child who is
818 abused or neglected as defined in § 63.2-100 or in need of services as defined in § 16.1-228 and his
819 family when the child (i) has been identified as needing services to prevent or eliminate the need for
820 foster care placement, (ii) has been placed through an agreement between the local board or the public
821 agency designated by the community policy and management team and the parents or guardians where
822 legal custody remains with the parents or guardians, or (iii) has been committed or entrusted to a local
823 board or licensed child placing agency.

824 § 63.2-905.1. Independent living services.

825 A. Local departments and licensed child-placing agencies ~~may~~shall provide independent living
826 services to persons between 18 and 21 years of age who are in the process of transitioning from foster
827 care to ~~self-sufficiency~~an independent living arrangement, subject to the provisions of subsections B, C,
828 and D.

829 B. Local departments and licensed child-placing agencies may provide independent living services as
830 part of the foster care services provided to any child 14 years of age or older. All independent living
831 services shall be provided in accordance with regulations adopted by the Board.

832 C. Any person who was committed or entrusted to a local board or licensed child-placing agency
833 may choose to discontinue receiving independent living services any time before his 21st birthday, upon
834 request and in accordance with regulations adopted by the Board. Upon receiving such a request, the
835 local board or licensed child-placing agency shall recommence the provision of independent living
836 services to that person provided that: (i) the person has not yet reached 21 years of age and (ii) one of
837 the following conditions exists: (a) the person is enrolled in or has applied for enrollment in an
838 educational or vocational program approved by the board or (b) the person has entered into a written
839 agreement with the local board or licensed child-placing agency setting forth the terms and conditions
840 under which he shall continue to receive independent living services.

841 D. The local board or licensed child-placing agency may terminate independent living services for a
842 person between 18 and 21 years of age if that person fails to cooperate with the services being provided
843 or if the person chooses to discontinue receiving services. The local board or licensed child-placing
844 agency also may terminate independent living services to a person who qualified for services under
845 subsection C if the person is no longer enrolled in an educational or vocational program or materially
846 breaches his written agreement with the local board or licensed child-placing agency. Persons who
847 leave an educational or vocational program must be given an opportunity to enter into a written
848 agreement pursuant to subsection C. Disputes related to the written agreement or the continuation of
849 independent living services shall be reviewed by the local director.

850 § 63.2-1819. Where child-placing agencies may place children.

851 Any licensed child-placing agency may place or negotiate and arrange for the placement of children
852 in any licensed children's residential facility, and, unless its license contains a limitation to the contrary,
853 a licensed child-placing agency may also place or arrange for the placement of such persons in any
854 suitable foster home or independent living ~~placement~~arrangement.