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SENATE BILL NO. 191

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 2.2-701, 2.2-1124, 2.2-1204, 2.2-1207, 2.2-2525, 2.2-2649, 2.2-3705.3, 15.2-964, 15.2-2291, 16.1-241, 16.1-269.1, 16.1-278.11, 16.1-280, 16.1-283, 16.1-336, 16.1-361, 18.2-369, 19.2-123, 19.2-182.2, 19.2-182.3, 19.2-182.8, 19.2-182.9, 19.2-218.1, 19.2-389, 22.1-7, 22.1-213, 22.1-214.3, 22.1-217.1, 22.1-253.13:2, 22.1-319, 23-38.2, 25.1-100, 32.1-59, 32.1-65, 32.1-102.1, 32.1-127.01, 32.1-283, as it is currently effective and as it shall become effective, 32.1-323.2, 36-96.6, 37.2-100, 37.2-203, 37.2-204, 37.2-303, 37.2-306, 37.2-315, 37.2-318, 37.2-319, 37.2-403, 37.2-408, 37.2-409, 37.2-416, 37.2-500, 37.2-504, 37.2-505, 37.2-506, 37.2-508, 37.2-509, 37.2-600, 37.2-601, 37.2-605, 37.2-608, 37.2-802, 37.2-806, 37.2-837, 38.2-3323, 38.2-3409, 40.1-28.9, 46.2-400, 46.2-401, 51.1-513.3, 51.5-3, 51.5-30, 51.5-39.7, 51.5-39.8, 53.1-216, 54.1-701, 54.1-2970, 54.1-2982, 58.1-638, 60.2-213, 63.2-1000, 63.2-1105, 63.2-1603, 63.2-1805, 64.1-62.3, 64.1-157.1, 66-18, and 66-20 of the Code of Virginia, relating to intellectual disability and developmental services; terminology.

Patron—Miller, J.C.

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That reenact §§ 2.2-701, 2.2-1124, 2.2-1204, 2.2-1207, 2.2-2525, 2.2-2649, 2.2-3705.3, 15.2-964, 15.2-2291, 16.1-241, 16.1-269.1, 16.1-278.11, 16.1-280, 16.1-283, 16.1-336, 16.1-361, 18.2-369, 19.2-123, 19.2-182.2, 19.2-182.3, 19.2-182.8, 19.2-182.9, 19.2-218.1, 19.2-389, 22.1-7, 22.1-213, 22.1-214.3, 22.1-217.1, 22.1-253.13:2, 22.1-319, 23-38.2, 25.1-100, 32.1-59, 32.1-65, 32.1-102.1, 32.1-127.01, 32.1-283, as it is currently effective and as it shall become effective, 32.1-323.2, 36-96.6, 37.2-100, 37.2-203, 37.2-204, 37.2-303, 37.2-306, 37.2-315, 37.2-318, 37.2-319, 37.2-403, 37.2-408, 37.2-409, 37.2-416, 37.2-500, 37.2-504, 37.2-505, 37.2-506, 37.2-508, 37.2-509, 37.2-600, 37.2-601, 37.2-605, 37.2-608, 37.2-802, 37.2-806, 37.2-837, 38.2-3323, 38.2-3409, 40.1-28.9, 46.2-400, 46.2-401, 51.1-513.3, 51.5-3, 51.5-30, 51.5-39.7, 51.5-39.8, 53.1-216, 54.1-701, 54.1-2970, 54.1-2982, 58.1-638, 60.2-213, 63.2-1000, 63.2-1105, 63.2-1603, 63.2-1805, 64.1-62.3, 64.1-157.1, 66-18, and 66-20 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-701. Nature of long-term care services.

A. The long-term care services shall include, but not be limited to, the following:

1. A balanced range of health, social, and supportive services to deliver long-term care services to persons aged age 60 and older with chronic illnesses or functional impairments;

2. Meaningful choice, increased functional ability, and affordability as determining factors in defining long-term care service needs, which needs shall be determined by a uniform system for comprehensively assessing the needs and preferences of individuals requiring such services;

3. Service delivery, consistent with the needs and preferences of individuals requiring such services, that occurs in the most independent, least restrictive, and most appropriate living situation possible; and

4. Opportunities for self-care and independent living, as appropriate, by encouraging all long-term care programs to maximize self-care and independent living within the mainstream of life in the community.

B. Such services shall include, but not be limited to, the following categories: socialization services, health care services, nutrition services, daily living services, educational services, housing services, transportation services, and supportive services.

C. As used in this section:

"Daily living services" includes homemaker, companion, personal care and chore services, home repair, weatherization and adult day care.

"Educational services" includes information on the long-term care services provided by agencies of the Commonwealth, its localities and private sector agencies, and public information as provided in § 2.2-213.1.

"Health care services" includes home health care and community medical care.

"Housing services" includes community-based residential opportunities and retrofitting existing housing as needed.

"Nutrition services" includes home-delivered meals, food stamps, and congregate meals.

"Socialization services" includes telephone reassurance, friendly visiting, and congregate meals.

"Supportive services" includes adult protective services, mental health and ~~mental retardation~~

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59 *developmental services, counseling services and legal aid.*

60 "Transportation services" includes readily available access to public transportation or area coordinated
61 para-transit systems.

62 § 2.2-1124. Disposition of surplus materials.

63 A. "Surplus materials" means personal property including, but not limited to, materials, supplies,
64 equipment, and recyclable items, but shall not include property as defined in § 2.2-1147 that is
65 determined to be surplus. Surplus materials shall not include finished products that a ~~mental health state~~
66 ~~hospital or mental retardation facility~~ *training center operated by the Department of Behavioral Health*
67 *and Developmental Services* sells for the benefit of its patients or residents, provided that (i) most of the
68 supplies, equipment, or products have been donated to the facility; (ii) the patients or residents of the
69 facility have substantially altered the supplies, equipment, or products in the course of occupational or
70 other therapy; and (iii) the substantial alterations have resulted in a finished product.

71 B. The Department shall establish procedures for the disposition of surplus materials from
72 departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

73 1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or
74 agencies of the Commonwealth;

75 2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status
76 under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured
77 that are organized for the delivery of primary health care services (i) as federally qualified health centers
78 designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or
79 without charge;

80 3. Permit public sales or auctions, including online public auctions, provided that the procedures
81 provide for sale to all political subdivisions and any volunteer rescue squad or volunteer fire department
82 established pursuant to § 15.2-955 any surplus materials prior to such public sale or auction;

83 4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service
84 departments for the purpose of resale at cost to TANF recipients;

85 5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status
86 under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

87 6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified
88 in this section;

89 7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to
90 be derived therefrom or (b) the surplus material is not suitable for sale;

91 8. Permit any dog especially trained for police work to be sold at an appropriate price to the handler
92 who last was in control of the dog, which sale shall not be deemed a violation of the State and Local
93 Government Conflict of Interests Act (§ 2.2-3100 et seq.);

94 9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency
95 of the Commonwealth for distribution to needy individuals by and through local social services boards;

96 10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

97 11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into
98 the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

99 12. Permit donations of surplus computers and related equipment to public schools in the
100 Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the
101 Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income
102 families. For the purposes of this subdivision, "at-risk youths" means school-age children approved
103 eligible to receive free or reduced price meals in the federally funded lunch program;

104 13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public
105 television stations located in the state and other nonprofit organizations approved for the distribution of
106 federal surplus materials;

107 14. Permit a public institution of higher education to dispose of its surplus materials at the location
108 where the surplus materials are held and to retain any proceeds from such disposal, provided that the
109 institution meets the conditions prescribed in subsection B of § 23-38.88 and § 23-38.112 (regardless of
110 whether or not the institution has been granted any authority under Subchapter 3 (§ 23-38.91 et seq.) of
111 Chapter 4.10 of Title 23); and

112 15. Require, to the extent practicable, the recycling and disposal of computers and other information
113 technology assets. Additionally, for computers or information technology assets that may contain
114 confidential state data or personal identifying information of citizens of the Commonwealth, the
115 Department shall ensure all policies for the transfer or other disposition of computers or information
116 technology assets are consistent with data and information security policies developed by the Virginia
117 Information Technologies Agency.

118 C. The Department shall dispose of surplus materials pursuant to the procedures established in
119 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose
120 of its surplus materials consistent with the procedures so established. No surplus materials shall be

disposed of without prior consent of the head of the department, division, institution, or agency of the Commonwealth in possession of such surplus materials or the Governor.

D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may donate surplus materials only under the following circumstances:

1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains a description of the surplus materials, the method by which the surplus materials shall be distributed, and the anticipated recipients, and (b) such information shall be provided by the Department to the Department of Planning and Budget in sufficient time for inclusion in the budget bill;

3. When the market value of the surplus materials, which shall be donated for a public purpose, is less than \$500; however, the total market value of all surplus materials so donated by any department, division, institution, or agency shall not exceed 25 percent of the revenue generated by such department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these limits shall not apply in the case of surplus computer equipment and related items donated to Virginia public schools; or

4. During a local emergency, upon written request of the head of a local government or a political subdivision in the Commonwealth to the head of a department, division, institution, or agency.

E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming fiscal year pursuant to subdivision B 6.

F. The Department may make available to any local public body of the Commonwealth the services or facilities authorized by this section; however, the furnishing of any such services shall not limit or impair any services normally rendered any department, division, institution or agency of the Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus Property Program under the guidelines established pursuant to this section and the surplus property policies and procedures of the Department. Proceeds from the sale of the surplus property shall be returned to the local body minus a service fee. The service fee charged by the Department shall be consistent with the fee charged by the Department to state public bodies.

§ 2.2-1204. Health insurance program for employees of local governments, local officers, teachers, etc.; definitions.

A. The Department shall establish a plan or plans, hereinafter "plan" or "plans," subject to the approval of the Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, employees of area agencies on aging, and retirees, and the dependents of such employees, officers, teachers, employees of area agencies on aging, and retirees. The plan or plans shall be rated separately from the plan established pursuant to § 2.2-2818 to provide health and related insurance coverage for state employees. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, by the local school board in the case of teachers, or by the governing body of an area agency on aging in the case of its employees, and (iii) subject to regulations adopted by the Department. In addition, at the option of a governing body, school board, or area agency on aging that has elected to participate in the health insurance plan or plans offered by the Department, the governing body, school board, or area agency on aging may elect to participate in the long-term care or other benefit program that the Department may make available to the governing body, school board, or area agency on aging.

B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), shall consist of a flexible benefits structure that permits the creation of multiple plans of benefits and may provide for separate rating groups based upon criteria established by the Department. The Department shall adopt regulations regarding the establishment of such a plan or plans, including, but not limited to, requirements for eligibility, participation, access and egress, mandatory employer contributions and financial reserves, and the administration of the plan or plans. The Department may engage the services of other professional advisors and vendors as necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together with all appropriations, premiums and other payments, shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

In establishing the participation requirements, the Department may provide that those employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums directly from the employers of such employees, officers, and teachers.

C. In the event that the financial reserves of the plan fall to an unacceptably low level as determined

182 by the Department, it shall have the authority to secure from the State Treasurer a loan sufficient to
183 raise the reserve level to one that is considered adequate. The State Treasurer may make such a loan, to
184 be repaid on such terms and conditions as established by him.

185 D. For the purposes of this section:

186 "Area agency on aging" means any agency designated pursuant to § 2.2-703.

187 "Employees of local governments" shall include all officers and employees of the governing body of
188 any county, city or town, and the directing or governing body of any political entity, subdivision, branch
189 or unit of the Commonwealth or of any commission or public authority or body corporate created by or
190 under an act of the General Assembly specifying the power or powers, privileges or authority capable of
191 exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300,
192 15.2-1303, or similar statutes, provided that the officers and employees of a social services department,
193 welfare board, ~~mental health, mental retardation and substance abuse~~ *community services board, or*
194 *behavioral health authority*, center for independent living funded in whole or in part by the Department
195 of Rehabilitative Services pursuant to the provisions of Chapter 6 (§ 51.5-23 et seq.) of Title 51.5, or
196 library board of a county, city, or town shall be deemed to be employees of local government.

197 "Governing body," with regard to a center for independent living, means the governing board of an
198 applicant established to operate the center for independent living as required by subsection B of
199 § 51.5-23.

200 "Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the
201 Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or
202 employees of any of the preceding local officers.

203 "Teacher" means any employee of a county, city, or other local public school board.

204 E. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross
205 and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance
206 company to a stock corporation known as Trigon Healthcare, Inc., that is directly attributable to the
207 health insurance plan or plans established for employees of local governments, local officers, teachers,
208 employees of area agencies on aging, and retirees, and the dependents of such employees, officers,
209 teachers and retirees, pursuant to subsection A (hereinafter referred to as the local choice plan
210 distribution) shall be deposited in the state treasury to the credit of the employee health insurance fund
211 to be used as provided in this subsection. Such distribution shall not include any cash paid by Blue
212 Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such
213 conversion that was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All
214 other stock and cash received by the Commonwealth pursuant to such conversion of Blue Cross and
215 Blue Shield of Virginia to a stock corporation shall be allocated as provided in subsection B of
216 § 23-284.

217 The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as
218 soon as practicable following its receipt, subject to any lockup period or other restriction on its sale, and
219 the proceeds therefrom shall be deposited in the state treasury to the credit of the employee health
220 insurance fund. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not
221 be liable for any losses incurred from the sale or distribution of such stock.

222 The Department of Human Resource Management shall use any stock, or the proceeds therefrom, and
223 cash received pursuant to the local choice plan distribution to reduce premiums payable by employers
224 participating in a plan or plans established pursuant to subsection A. In setting health insurance
225 premiums for such plan or plans, the Director of the Department of Human Resource Management shall
226 allocate the value of such stock, or proceeds therefrom, and cash among each participating employer.
227 Such allocation shall be based on the proportionate amounts of premiums previously paid by each
228 participating employer. If a participating employer withdraws from such plan or plans before all of the
229 value allocated to it has been used for the benefit of the participating employer, the remaining value
230 shall be transferred to such participating employer upon his withdrawal.

231 § 2.2-1207. Long-term care insurance program for employees of local governments, local officers,
232 and teachers.

233 A. The Department shall establish a plan or plans, hereinafter "plan" or "plans," subject to the
234 approval of the Governor, for providing long-term care insurance coverage for employees of local
235 governments, local officers, and teachers. The plan or plans shall be rated separately from the plan
236 developed pursuant to § 51.1-513.1 to provide long-term care insurance coverage for state employees.
237 Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's
238 respective governing body, or by the local school board in the case of teachers, and (iii) subject to
239 regulations adopted by the Department.

240 B. The Department shall adopt regulations regarding the establishment of such a plan or plans, and
241 the administration of the plan or plans.

242 C. For the purposes of this section:

243 "Employees of local governments" shall include all officers and employees of the governing body of

any county, city or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department, welfare board, ~~mental health, mental retardation and substance abuse~~ *community services board or behavioral health authority*, or library board of a county, city, or town shall be deemed to be employees of local government.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board.

D. The Department shall not carry out the provisions of this section if and when the Virginia Retirement System assumes responsibility for the plan or plans pursuant to § 51.1-513.3.

§ 2.2-2525. (Expires July 1, 2014) Membership; terms; quorum; meetings.

The Commission shall have a total membership of 21 nonlegislative citizen members to be appointed as follows: four nonlegislative citizen members, of whom two shall be persons with disabilities, one shall be the relative of a citizen of the Commonwealth with a disability, and one shall be a provider of services to citizens of the Commonwealth with disabilities or an advocate for persons with disabilities or for services to such persons to be appointed by the Senate Committee on Rules; six nonlegislative citizen members, of whom three shall be persons with disabilities, one shall be the relative of a citizen of the Commonwealth with a disability, and two shall be providers of services to citizens of the Commonwealth with disabilities or an advocate for persons with disabilities or for services to such persons to be appointed by the Speaker of the House of Delegates; and 11 nonlegislative citizen members, of whom three shall be persons with disabilities, one shall be a resident of a state ~~mental health facility hospital~~, one shall be a resident of a state ~~mental retardation training facility training center~~, one shall be a resident of a nursing facility, two shall be the relatives of citizens of the Commonwealth with disabilities, and three shall be providers of services to citizens of the Commonwealth with disabilities or an advocate for persons with disabilities or for services to such persons to be appointed by the Governor. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth.

Nonlegislative citizen members shall serve a term of four years; however, no nonlegislative citizen member shall serve more than two consecutive four-year terms. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

The Commission shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The Commission shall meet not less than four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

§ 2.2-2649. Office of Comprehensive Services for At-Risk Youth and Families established; powers and duties.

A. The Office of Comprehensive Services for At-Risk Youth and Families is hereby established to serve as the administrative entity of the Council and to ensure that the decisions of the council are implemented. The director shall be hired by and subject to the direction and supervision of the Council pursuant to § 2.2-2648.

B. The director of the Office of Comprehensive Services for At-Risk Youth and Families shall:

1. Develop and recommend to the state executive council programs and fiscal policies that promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;

2. Develop and recommend to the Council state interagency policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;

3. Develop and provide for the consistent oversight for program administration and compliance with state policies and procedures;

4. Provide for training and technical assistance to localities in the provision of efficient and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families;

5. Serve as liaison to the participating state agencies that administratively support the Office and that provide other necessary services;

6. Provide an informal review and negotiation process pursuant to subdivision D 19 of § 2.2-2648;

7. Implement, in collaboration with participating state agencies, policies, guidelines and procedures

305 adopted by the State Executive Council;

306 8. Consult regularly with the Virginia Municipal League, the Virginia Coalition of Private Provider
307 Associations, and the Virginia Association of Counties about implementation and operation of the
308 Comprehensive Services Act (§ 2.2-5200 et seq.);

309 9. Hire appropriate staff as approved by the Council;

310 10. Identify, disseminate, and provide annual training for CSA staff and other interested parties on
311 best practices and evidence-based practices related to the Comprehensive Services Program;

312 11. Perform such other duties as may be assigned by the State Executive Council;

313 12. Develop and implement uniform data collection standards and collect data, utilizing a secure
314 electronic database for CSA-funded services, in accordance with subdivision D 16 of § 2.2-2648;

315 13. Develop and implement a uniform set of performance measures for the Comprehensive Services
316 Act program in accordance with subdivision D 17 of § 2.2-2648;

317 14. Develop, implement, and distribute management reports in accordance with subdivision D 18 of
318 § 2.2-2648;

319 15. Report to the Council all expenditures associated with serving children who receive pool-funded
320 services. The report shall include expenditures for (i) all services purchased with pool funding; (ii)
321 treatment, foster care case management, and residential care funded by Medicaid; and (iii) child-specific
322 payments made through the Title IV-E program;

323 16. Report to the Council on the nature and cost of all services provided to the population of at-risk
324 and troubled children identified by the State Executive Council as within the scope of the CSA program;

325 17. Develop and distribute model job descriptions for the position of Comprehensive Services Act
326 Coordinator and provide technical assistance to localities and their coordinators to help them to guide
327 localities in prioritizing coordinator's responsibilities toward activities to maximize program effectiveness
328 and minimize spending; and

329 18. Develop and distribute guidelines, approved by the State Executive Council, regarding the
330 development and use of multidisciplinary teams, in order to encourage utilization of multidisciplinary
331 teams in service planning and to reduce Family Assessment and Planning Team caseloads to allow
332 Family Assessment and Planning Teams to devote additional time to more complex and potentially
333 costly cases.

334 C. The director of the Office of Comprehensive Services, in order to provide support and assistance
335 to the Comprehensive Policy and Management Teams (CPMTs) and Family Assessment and Planning
336 Teams (FAPTs) established pursuant to the Comprehensive Services Act for At-Risk Youth and Families
337 (§ 2.2-5200 et seq.), shall:

338 1. Develop and maintain a web-based statewide automated database, with support from the
339 Department of Information Technology or its successor agency, of the authorized vendors of the
340 Comprehensive Services Act (CSA) services to include verification of a vendor's licensure status, a
341 listing of each discrete CSA service offered by the vendor, and the discrete CSA service's rate
342 determined in accordance with § 2.2-5214; and

343 2. Develop, in consultation with the Department of General Services, CPMTs, and vendors, a
344 standardized purchase of services contract, which in addition to general contract provisions when
345 utilizing state pool funds will enable localities to specify the discrete service or services they are
346 purchasing for the specified client, the required reporting of the client's service data, including types and
347 numbers of disabilities, mental health and ~~mental retardation~~ *intellectual disability* diagnoses, or
348 delinquent behaviors for which the purchased services are intended to address, the expected outcomes
349 resulting from these services and the performance timeframes mutually agreed to when the services are
350 purchased.

351 § 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

352 The following records are excluded from the provisions of this chapter but may be disclosed by the
353 custodian in his discretion, except where such disclosure is prohibited by law:

354 1. Confidential records of all investigations of applications for licenses and permits, and of all
355 licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State
356 Lottery Department, the Virginia Racing Commission, the Department of Agriculture and Consumer
357 Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of
358 Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice
359 Services.

360 2. Records of active investigations being conducted by the Department of Health Professions or by
361 any health regulatory board in the Commonwealth.

362 3. Investigator notes, and other correspondence and information, furnished in confidence with respect
363 to an active investigation of individual employment discrimination complaints made to the Department
364 of Human Resource Management or to such personnel of any local public body, including local school
365 boards as are responsible for conducting such investigations in confidence. However, nothing in this
366 section shall prohibit the disclosure of information taken from inactive reports in a form that does not

367 reveal the identity of charging parties, persons supplying the information or other individuals involved in
368 the investigation.

369 4. Records of active investigations being conducted by the Department of Medical Assistance
370 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

371 5. Investigative notes and other correspondence and information furnished in confidence with respect
372 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
373 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
374 with the authority specified in § 2.2-2638, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
375 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
376 However, nothing in this section shall prohibit the distribution of information taken from inactive reports
377 in a form that does not reveal the identity of the parties involved or other persons supplying
378 information.

379 6. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii)
380 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
381 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
382 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
383 such official records have not been publicly released, published or copyrighted. All studies and
384 investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon
385 completion of the study or investigation.

386 7. (Effective until July 1, 2012) Investigative notes, correspondence and information furnished in
387 confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or
388 produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review
389 Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of
390 wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.);
391 (iv) Department of the State Internal Auditor with respect to an investigation initiated through the State
392 Employee Fraud, Waste and Abuse Hotline; (v) committee or the auditor with respect to an investigation
393 or audit conducted pursuant to § 15.2-825; or (vi) auditors, appointed by the local governing body of
394 any county, city or town or a school board, who by charter, ordinance, or statute have responsibility for
395 conducting an investigation of any officer, department or program of such body. Records of completed
396 investigations shall be disclosed in a form that does not reveal the identity of the complainants or
397 persons supplying information to investigators. Unless disclosure is prohibited by this section, the
398 records disclosed shall include, but not be limited to, the agency involved, the identity of the person
399 who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the
400 complaint. If an investigation does not lead to corrective action, the identity of the person who is the
401 subject of the complaint may be released only with the consent of the subject person. Local governing
402 bodies shall adopt guidelines to govern the disclosure required by this subdivision.

403 7. (Effective July 1, 2012) Investigative notes, correspondence and information furnished in
404 confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or
405 produced by or for (i) the Auditor of Public Accounts; (ii) the Joint Legislative Audit and Review
406 Commission; (iii) an appropriate authority as defined in § 2.2-3010 with respect to an allegation of
407 wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.);
408 (iv) the Office of the State Inspector General with respect to an investigation initiated through the State
409 Employee Fraud, Waste and Abuse Hotline or an investigation initiated pursuant to Chapter 3.2
410 (§ 2.2-307 et seq.); (v) the committee or the auditor with respect to an investigation or audit conducted
411 pursuant to § 15.2-825; or (vi) the auditors, appointed by the local governing body of any county, city
412 or town or a school board, who by charter, ordinance, or statute have responsibility for conducting an
413 investigation of any officer, department or program of such body. Records of completed investigations
414 shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying
415 information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall
416 include, but not be limited to, the agency involved, the identity of the person who is the subject of the
417 complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation
418 does not lead to corrective action, the identity of the person who is the subject of the complaint may be
419 released only with the consent of the subject person. Local governing bodies shall adopt guidelines to
420 govern the disclosure required by this subdivision.

421 8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence
422 received or maintained by the Office or its agents in connection with specific complaints or
423 investigations, and records of communications between employees and agents of the Office and its
424 clients or prospective clients concerning specific complaints, investigations or cases. Upon the
425 conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may
426 not at any time release the identity of any complainant or person with mental illness, ~~mental retardation~~
427 *intellectual disability*, developmental disabilities or other disability, unless (i) such complainant or person

428 or his legal representative consents in writing to such identification or (ii) such identification is required
429 by court order.

430 9. Information furnished in confidence to the Department of Employment Dispute Resolution with
431 respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title,
432 and memoranda, correspondence and other records resulting from any such investigation, consultation or
433 mediation. However, nothing in this section shall prohibit the distribution of information taken from
434 inactive reports in a form that does not reveal the identity of the parties involved or other persons
435 supplying information.

436 10. The names, addresses and telephone numbers of complainants furnished in confidence with
437 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
438 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
439 seq.) made to a local governing body.

440 11. Records of active investigations being conducted by the Department of Criminal Justice Services
441 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),
442 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

443 12. Records furnished to or prepared by the Board of Education pursuant to subsection D of
444 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
445 unauthorized alteration, or improper administration of tests by local school board employees responsible
446 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
447 of records to (i) a local school board or division superintendent for the purpose of permitting such board
448 or superintendent to consider or to take personnel action with regard to an employee or (ii) any
449 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity
450 of any person making a complaint or supplying information to the Board on a confidential basis and (b)
451 does not compromise the security of any test mandated by the Board.

452 13. Investigator notes, and other correspondence and information, furnished in confidence with
453 respect to an active investigation conducted by or for the Board of Education related to the denial,
454 suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure
455 of records to a local school board or division superintendent for the purpose of permitting such board or
456 superintendent to consider or to take personnel action with regard to an employee. Records of completed
457 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
458 supplying information to investigators. The records disclosed shall include information regarding the
459 school or facility involved, the identity of the person who was the subject of the complaint, the nature
460 of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a
461 complaint or does not lead to corrective action, the identity of the person who was the subject of the
462 complaint may be released only with the consent of the subject person. No personally identifiable
463 information in the records regarding a current or former student shall be released except as permitted by
464 state or federal law.

465 14. Records, notes and information provided in confidence and related to an investigation by the
466 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of
467 Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2,
468 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that
469 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is
470 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,
471 persons supplying information, witnesses or other individuals involved in the investigation.

472 § 15.2-964. Organization of local human services activities; authorization of reorganization by
473 Governor.

474 A. Any city or county may prepare and submit to the Governor a plan to reorganize the
475 governmental structures or administrative procedures and systems of human resources agencies should
476 provisions of law or the rules, regulations and standards of any state agency prohibit or restrict the
477 implementation of such a reorganization. The plan shall set forth the proposed reorganization and the
478 provisions of law or the rules, regulations or standards that prohibit or restrict the implementation of
479 such proposed reorganization.

480 B. The Governor shall prepare, and provide to those counties and cities which request them,
481 guidelines for the preparation and submission to him of reorganization plans by a city or county. The
482 Governor may consider only those reorganization plans adopted by resolution of the governing body of
483 the city or county applying for approval to reorganize its human services agencies.

484 C. The several state boards and commissions which are empowered to promulgate rules, regulations
485 and guidelines affecting the organization or administration of local human service agencies are hereby
486 authorized to modify their respective rules, regulations and guidelines at the direction of the Governor in
487 furtherance of any reorganization plan approved by him.

488 D. If a provision or provisions of law prohibit or restrict the implementation of all or part of such
489 reorganization plan the Governor shall transmit such plan or such parts of such plan affected by such

laws to each House of the General Assembly at least ~~forty-five~~ 45 days prior to the commencement of a regular or special session of the General Assembly. Such plan or portions of such plan so transmitted by the Governor under this section shall not become effective unless it is introduced by bill and enacted into law.

E. The plan or such portions of the plan transmitted by the Governor to the General Assembly shall set forth: (i) the provision or provisions of law that prohibit or restrict the implementation of such plan or parts of such plan; (ii) the changes in governmental structure or administrative procedure system of the human resources agencies affected; and (iii) the anticipated effects of such changes upon the efficiency and effectiveness of the agencies affected.

F. Any reorganization authorized under the provision of this section shall be implemented within appropriations or other funds which may be made available to the city or county requesting such reorganization approval.

G. Nothing in this section shall be interpreted to permit a city or county to eliminate the provision of any service required by law or to reduce the level of service below any level required by law.

H. The localities shall be required to maintain financial and statistical records in accordance with the guidelines issued by the Governor so as to allow responsible state agencies to review records and determine costs for programs for which the agency is responsible.

I. For the purposes of this section the term "human resource agencies" means agencies ~~which that~~ deliver social, employment, health, mental health and ~~mental retardation~~ *developmental*, rehabilitation, nursing, ~~or information and referral service,~~ *services* and such other related services.

§ 15.2-2291. Assisted living facilities and group homes of eight or fewer single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, ~~mental retardation,~~ *or intellectual disability,* or developmental disabilities reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

§ 16.1-241. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided

551 in § 16.1-244; and

552 6. Who is charged with a traffic infraction as defined in § 46.2-100.

553 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated
554 in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile
555 court shall be limited to conducting a preliminary hearing to determine if there is probable cause to
556 believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at
557 the time of the commission of the alleged offense, and any matters related thereto. In any case in which
558 the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of
559 § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given
560 notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited
561 to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile
562 committed the act alleged and that the juvenile was 14 years of age or older at the time of the
563 commission of the alleged offense, and any matters related thereto. A determination by the juvenile
564 court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge
565 to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge.
566 In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile
567 court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as
568 provided in § 16.1-269.6.

569 In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a
570 violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a
571 lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be
572 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

573 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,
574 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,
575 father or legal guardian but shall include petitions filed at any time by any party with a legitimate
576 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not
577 be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party
578 with a legitimate interest shall not include any person (i) whose parental rights have been terminated by
579 court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a
580 person whose parental rights have been terminated by court order, either voluntarily or involuntarily,
581 including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family
582 members, if the child subsequently has been legally adopted, except where a final order of adoption is
583 entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of
584 § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United
585 States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a
586 result of such violation. The authority of the juvenile court to consider a petition involving the custody
587 of a child shall not be proscribed or limited where the child has previously been awarded to the custody
588 of a local board of social services.

589 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
590 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the involuntary admission of a person
591 with mental illness or judicial certification of eligibility for admission to a training center for persons
592 with ~~mental retardation~~ *intellectual disability* in accordance with the provisions of Chapters 4
593 (~~§ 37.2-100 et seq.~~) and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary
594 admission and certification of adults shall be concurrent with the general district court.

595 C. Except as provided in subsections D and H ~~hereof~~, judicial consent to such activities as may
596 require parental consent may be given for a child who has been separated from his parents, guardian,
597 legal custodian or other person standing in loco parentis and is in the custody of the court when such
598 consent is required by law.

599 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
600 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
601 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
602 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,
603 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such
604 consent or provide such treatment when requested by the judge to do so.

605 E. Any person charged with deserting, abandoning or failing to provide support for any person in
606 violation of law.

607 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

608 1. Who has been abused or neglected;

609 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817
610 or is otherwise before the court pursuant to subdivision A 4 of this section; or

611 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
612 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the

conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not

674 in the best interest of the minor if he finds that (i) one or more authorized persons with whom the
675 minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person,
676 if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian,
677 custodian or person standing in loco parentis.

678 The minor may participate in the court proceedings on her own behalf, and the court may appoint a
679 guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and
680 shall, upon her request, appoint counsel for her.

681 Notwithstanding any other provision of law, the provisions of this subsection shall govern
682 proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and
683 records of such proceedings shall be confidential. Such proceedings shall be given precedence over other
684 pending matters so that the court may reach a decision promptly and without delay in order to serve the
685 best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon
686 as practicable but in no event later than four days after the petition is filed.

687 An expedited confidential appeal to the circuit court shall be available to any minor for whom the
688 court denies an order authorizing an abortion without consent or without notice. Any such appeal shall
689 be heard and decided no later than five days after the appeal is filed. The time periods required by this
690 subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent
691 or without notice shall not be subject to appeal.

692 No filing fees shall be required of the minor at trial or upon appeal.

693 If either the original court or the circuit court fails to act within the time periods required by this
694 subsection, the court before which the proceeding is pending shall immediately authorize a physician to
695 perform the abortion without consent of or notice to an authorized person.

696 Nothing contained in this subsection shall be construed to authorize a physician to perform an
697 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult
698 woman.

699 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent
700 has been obtained or the minor delivers to the physician a court order entered pursuant to this section
701 and the physician or his agent provides such notice as such order may require. However, neither consent
702 nor judicial authorization nor notice shall be required if the minor declares that she is abused or
703 neglected and the attending physician has reason to suspect that the minor may be an abused or
704 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with
705 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the
706 facts justifying the exception in the minor's medical record.

707 For purposes of this subsection:

708 "Authorization" means the minor has delivered to the physician a notarized, written statement signed
709 by an authorized person that the authorized person knows of the minor's intent to have an abortion and
710 consents to such abortion being performed on the minor.

711 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or
712 (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with
713 whom the minor regularly and customarily resides and who has care and control of the minor. Any
714 person who knows he is not an authorized person and who knowingly and willfully signs an
715 authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

716 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has
717 received authorization from an authorized person, or (ii) at least one authorized person is present with
718 the minor seeking the abortion and provides written authorization to the physician, which shall be
719 witnessed by the physician or an agent thereof. In either case, the written authorization shall be
720 incorporated into the minor's medical record and maintained as a part thereof.

721 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical
722 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate
723 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial
724 and irreversible impairment of a major bodily function.

725 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual
726 notice of his intention to perform such abortion to an authorized person, either in person or by
727 telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his
728 agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person
729 by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at
730 least 72 hours prior to the performance of the abortion.

731 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical
732 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

733 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid
734 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any
735 of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her

parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

W. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3 of subsection A, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M or R of this section.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection V shall be guilty of a Class 3 misdemeanor.

§ 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.

A. Except as provided in subsections B and C, if a juvenile ~~fourteen~~ 14 years of age or older at the time of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;

2. The juvenile court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;

3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and

4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the following factors:

a. The juvenile's age;

b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than ~~twenty~~ 20 years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;

d. The appropriateness and availability of the services and dispositional alternatives in both the criminal justice and juvenile justice systems for dealing with the juvenile's problems;

e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;

g. The extent, if any, of the juvenile's degree of ~~mental retardation~~ *intellectual disability* or mental illness;

h. The juvenile's school record and education;

i. The juvenile's mental and emotional maturity; and

j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision A 4 of this section.

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile ~~fourteen~~ 14 years of age or older is charged with murder in violation of §§ 18.2-31, 18.2-32, or § 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2.

797 C. The juvenile court shall conduct a preliminary hearing whenever a juvenile ~~fourteen~~ 14 years of
798 age or older is charged with murder in violation of § 18.2-33, felonious injury by mob in violation of
799 § 18.2-41, abduction in violation of § 18.2-48, malicious wounding in violation of § 18.2-51, malicious
800 wounding of a law-enforcement officer in violation of § 18.2-51.1, felonious poisoning in violation of
801 § 18.2-54.1, adulteration of products in violation of § 18.2-54.2, robbery in violation of § 18.2-58 or
802 carjacking in violation of § 18.2-58.1, rape in violation of § 18.2-61, forcible sodomy in violation of
803 § 18.2-67.1 or object sexual penetration in violation of § 18.2-67.2, provided the attorney for the
804 Commonwealth gives written notice of his intent to proceed pursuant to this subsection. The notice shall
805 be filed with the court and mailed or delivered to counsel for the juvenile or, if the juvenile is not then
806 represented by counsel, to the juvenile and a parent, guardian or other person standing in loco parentis
807 with respect to the juvenile at least seven days prior to the preliminary hearing. If the attorney for the
808 Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification
809 of the charge to the grand jury, he may proceed as provided in subsection A.

810 D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the
811 juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification
812 shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this
813 subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and
814 ancillary charges which may otherwise be properly within the jurisdiction of the juvenile court.

815 If the court does not find probable cause to believe that the juvenile has committed the violent
816 juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by
817 dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the
818 circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney
819 for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

820 If the court finds that the juvenile was not ~~fourteen~~ 14 years of age or older at the time of the
821 alleged commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 of
822 ~~subsection A~~ have not been met, the case shall proceed as otherwise provided for by law.

823 E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile
824 court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the
825 Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

826 § 16.1-278.11. Mental illness and intellectual disability.

827 In cases involving a person who is involuntarily admitted because of a mental illness or is judicially
828 certified as eligible for admission to a training center for persons with ~~mental retardation~~ *intellectual*
829 *disability*, disposition shall be in accordance with the provisions of ~~Chapters 1 (§ 37.2-100 et seq.) and~~
830 *Chapter 8 (§ 37.2-800 et seq.)* of Title 37.2. A child shall not be committed pursuant to §§ 16.1-278.2
831 through 16.1-278.8 or the provisions of Title 37.2 to a maximum security unit within any state hospital
832 where adults determined to be criminally insane reside.

833 § 16.1-280. Commitment of juveniles with mental illness or intellectual disability.

834 When any juvenile court has found a juvenile to be in need of services or delinquent pursuant to the
835 provisions of this law and reasonably believes such juvenile has mental illness or ~~mental retardation~~
836 *intellectual disability*, the court may commit him to an appropriate hospital or order mandatory
837 outpatient treatment in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) ~~of this chapter~~
838 or admit him to a training center in accordance with the provisions of § 37.2-806 for observation as to
839 his mental condition. No juvenile shall be committed pursuant to this section or Article 16 (§ 16.1-335
840 et seq.) ~~of this chapter~~ to a maximum security unit within any state hospital where adults determined to
841 be criminally insane reside. However, the Commissioner of Behavioral Health and Developmental
842 Services may place a juvenile who has been certified to the circuit court for trial as an adult pursuant to
843 § 16.1-269.6 or 16.1-270 or who has been convicted as an adult of a felony in the circuit court in a unit
844 appropriate for the care and treatment of persons under a criminal charge when, in his discretion, such
845 placement is necessary to protect the security or safety of other patients, staff, or *the* public. The
846 Commissioner shall notify the committing court of any placement in such unit. The committing court
847 shall review the placement at ~~thirty-day~~ 30-day intervals.

848 § 16.1-283. Termination of residual parental rights.

849 A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter
850 provided in a separate proceeding if the petition specifically requests such relief. No petition seeking
851 termination of residual parental rights shall be accepted by the court prior to the filing of a foster care
852 plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the
853 best interests of the child. The court may hear and adjudicate a petition for termination of parental rights
854 in the same proceeding in which the court has approved a foster care plan which documents that
855 termination is in the best interests of the child. The court may terminate the residual parental rights of
856 one parent without affecting the rights of the other parent. The local board of social services or a
857 licensed child-placing agency need not have identified an available and eligible family to adopt a child
858 for whom termination of parental rights is being sought prior to the entry of an order terminating

parental rights.

Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services, to a licensed child-placing agency or the granting of custody or guardianship to a relative or other interested individual, subject to the provisions of subsection A1 of this section. However, in such cases the court shall give a consideration to granting custody to relatives of the child, including grandparents. An order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto.

The summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child, a relative providing care for the child, and any preadoptive parents for the child informing them that they may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding. The persons entitled to notice and an opportunity to be heard need not be made parties to the proceedings. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264.

A1. Any order transferring custody of the child to a relative or other interested individual pursuant to subsection A of this section shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative or other interested individual 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 or other interested individual should further provide, as appropriate, for any terms and conditions which would promote the child's interest and welfare.

B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement entered into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health or development; and

2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subdivision B 2 hereof:

a. The parent or parents ~~are suffering from~~ have a mental or emotional illness or ~~mental deficiency~~ *intellectual disability* of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;

b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or

c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition; or

2. The parent or parents, without good cause, have been unwilling or unable within a reasonable

920 period of time not to exceed ~~twelve~~ 12 months from the date the child was placed in foster care to
921 remedy substantially the conditions which led to or required continuation of the child's foster care
922 placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or
923 other rehabilitative agencies to such end. Proof that the parent or parents, without good cause, have
924 failed or been unable to make substantial progress towards elimination of the conditions which led to or
925 required continuation of the child's foster care placement in accordance with their obligations under and
926 within the time limits or goals set forth in a foster care plan filed with the court or any other plan
927 jointly designed and agreed to by the parent or parents and a public or private social, medical, mental
928 health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court
929 shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior
930 to the placement of the child in foster care.

931 D. The residual parental rights of a parent or parents of a child found by the court to be neglected or
932 abused upon the ground of abandonment may be terminated if the court finds, based upon clear and
933 convincing evidence, that it is in the best interests of the child and that:

934 1. The child was abandoned under such circumstances that either the identity or the whereabouts of
935 the parent or parents cannot be determined; and

936 2. The child's parent or parents, guardian or relatives have not come forward to identify such child
937 and claim a relationship to the child within three months following the issuance of an order by the court
938 placing the child in foster care; and

939 3. Diligent efforts have been made to locate the child's parent or parents without avail.

940 E. The residual parental rights of a parent or parents of a child who is in the custody of a local
941 board or licensed child-placing agency may be terminated by the court if the court finds, based upon
942 clear and convincing evidence, that it is in the best interests of the child and that (i) the residual
943 parental rights of the parent regarding a sibling of the child have previously been involuntarily
944 terminated; (ii) the parent has been convicted of an offense under the laws of ~~this~~ the Commonwealth or
945 a substantially similar law of any other state, the United States or any foreign jurisdiction that
946 constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit
947 any such offense, if the victim of the offense was a child of the parent, a child with whom the parent
948 resided at the time such offense occurred or the other parent of the child; (iii) the parent has been
949 convicted of an offense under the laws of ~~this~~ the Commonwealth or a substantially similar law of any
950 other state, the United States or any foreign jurisdiction that constitutes felony assault resulting in
951 serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual
952 assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at
953 the time of such offense; or (iv) the parent has subjected any child to aggravated circumstances.

954 As used in this section:

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

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

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

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

967 The local board or other child welfare agency having custody of the child shall not be required by
968 the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of
969 the felonies specified in this subsection or who has been found by the court to have subjected any child
970 to aggravated circumstances.

971 F. The local board or licensed child-placing agency to which authority is given to place the child for
972 adoption and consent thereto after an order terminating parental rights is entered shall file a written
973 Adoption Progress Report with the juvenile court on the progress being made to place the child in an
974 adoptive home. The report shall be filed with the court every six months from the date of the final order
975 terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit
976 court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is
977 given to the local board or licensed child-placing agency to place the child for adoption, the juvenile
978 court shall schedule a date by which the board or agency shall file the first written Adoption Progress
979 Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to
980 the guardian ad litem for the child. The court may schedule a hearing on the report with or without the
981 request of a party.

G. Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he is ~~fourteen~~ 14 years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination. However, residual parental rights of a child ~~fourteen~~ 14 years of age or older may be terminated over the objection of the child, if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.

§ 16.1-336. Definitions.

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

"Community services board" has the same meaning as provided in § 37.2-100. Whenever the term community services board appears, it shall include behavioral health authority, as that term is defined in § 37.2-100.

"Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a minor 14 years of age or older and by a parent or a legally authorized custodian.

"Designee of the local community services board" means an examiner designated by the local community services board who (i) is skilled in the assessment and treatment of mental illness, (ii) has completed a certification program approved by the Department of Behavioral Health and Developmental Services, (iii) is able to provide an independent examination of the minor, (iv) is not related by blood, marriage, or adoption to, or is not the legal guardian of, the minor being evaluated, (v) has no financial interest in the admission or treatment of the minor being evaluated, (vi) has no investment interest in the facility detaining or admitting the minor under this article, and (vii) except for employees of state hospitals and of the U.S. Department of Veterans Affairs, is not employed by the facility.

"Employee" means an employee of the local community services board who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department of Behavioral Health and Developmental Services.

"Incapable of making an informed decision" means unable to understand the nature, extent, or probable consequences of a proposed treatment or unable to make a rational evaluation of the risks and benefits of the proposed treatment as compared with the risks and benefits of alternatives to the treatment. Persons with dysphasia or other communication disorders who are mentally competent and able to communicate shall not be considered incapable of giving informed consent.

"Inpatient treatment" means placement for observation, diagnosis, or treatment of mental illness in a psychiatric hospital or in any other type of mental health facility determined by the Department of Behavioral Health and Developmental Services to be substantially similar to a psychiatric hospital with respect to restrictions on freedom and therapeutic intrusiveness.

"Investment interest" means the ownership or holding of an equity or debt security, including shares of stock in a corporation, interests or units of a partnership, bonds, debentures, notes, or other equity or debt instruments.

"Judge" means a juvenile and domestic relations district judge. In addition, "judge" includes a retired judge sitting by designation pursuant to § 16.1-69.35, substitute judge, or special justice authorized by § 37.2-803 who has completed a training program regarding the provisions of this article, prescribed by the Executive Secretary of the Supreme Court.

"Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the minor or others from physical injury.

"Mental health facility" means a public or private facility for the treatment of mental illness operated or licensed by the Department of Behavioral Health and Developmental Services.

"Mental illness" means a substantial disorder of the minor's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior. ~~Mental retardation~~ Intellectual disability, head injury, a learning disability, or a seizure disorder is not sufficient, in itself, to justify a finding of mental illness within the meaning of this article.

"Minor" means a person less than 18 years of age.

"Parent" means (i) a biological or adoptive parent who has legal custody of the minor, including either parent if custody is shared under a joint decree or agreement, (ii) a biological or adoptive parent with whom the minor regularly resides, (iii) a person judicially appointed as a legal guardian of the minor, or (iv) a person who exercises the rights and responsibilities of legal custody by delegation from a biological or adoptive parent, upon provisional adoption or otherwise by operation of law. The director of the local department of social services, or his designee, may stand as the minor's parent when the minor is in the legal custody of the local department of social services.

1043 "Qualified evaluator" means a psychiatrist or a psychologist licensed in Virginia by either the Board
1044 of Medicine or the Board of Psychology, or if such psychiatrist or psychologist is unavailable, (i) any
1045 mental health professional licensed in Virginia through the Department of Health Professions as a
1046 clinical social worker, professional counselor, marriage and family therapist, psychiatric nurse
1047 practitioner, or clinical nurse specialist, or (ii) any mental health professional employed by a community
1048 services board. All qualified evaluators shall (a) be skilled in the diagnosis and treatment of mental
1049 illness in minors, (b) be familiar with the provisions of this article, and (c) have completed a
1050 certification program approved by the Department of Behavioral Health and Developmental Services.
1051 The qualified evaluator shall (1) not be related by blood, marriage, or adoption to, or is not the legal
1052 guardian of, the minor being evaluated, (2) not be responsible for treating the minor, (3) have no
1053 financial interest in the admission or treatment of the minor, (4) have no investment interest in the
1054 facility detaining or admitting the minor under this article, and (5) except for employees of state
1055 hospitals, the U.S. Department of Veterans Affairs, and community services boards, not be employed by
1056 the facility.

1057 "Treatment" means any planned intervention intended to improve a minor's functioning in those areas
1058 which show impairment as a result of mental illness.

1059 § 16.1-361. Compensation of experts.

1060 Each psychiatrist, clinical psychologist, licensed clinical social worker, licensed professional
1061 counselor, licensed marriage and family therapist, or other expert appointed by the court to render
1062 professional service pursuant to § 16.1-356, shall receive a reasonable fee for such service. With the
1063 exception of services provided by state ~~mental health or mental retardation facilities~~ hospitals or training
1064 centers, the fee shall be determined in each instance by the court that appointed the expert, in
1065 accordance with guidelines established by the Supreme Court after consultation with the Department of
1066 Behavioral Health and Developmental Services. If any such expert is required to appear as a witness in
1067 any hearing held pursuant to § 16.1-356, he shall receive mileage and a fee of \$100 for each day during
1068 which he is required to serve. An itemized account of expenses, duly sworn to, must be presented to the
1069 court, and when allowed shall be certified to the Supreme Court for payment out of the state treasury,
1070 and be charged against the appropriations made to pay criminal charges. Allowance for the fee and for
1071 the per diem authorized shall also be made by order of the court, duly certified to the Supreme Court
1072 for payment out of the appropriation to pay criminal charges.

1073 § 18.2-369. Abuse and neglect of incapacitated adults; penalty.

1074 A. It shall be unlawful for any responsible person to abuse or neglect any incapacitated adult as
1075 defined in this section. Any responsible person who abuses or neglects an incapacitated adult in
1076 violation of this section and the abuse or neglect does not result in serious bodily injury or disease to
1077 the incapacitated adult is guilty of a Class 1 misdemeanor. Any responsible person who is convicted of
1078 a second or subsequent offense under this subsection is guilty of a Class 6 felony.

1079 B. Any responsible person who abuses or neglects an incapacitated adult in violation of this section
1080 and the abuse or neglect results in serious bodily injury or disease to the incapacitated adult is guilty of
1081 a Class 4 felony. Any responsible person who abuses or neglects an incapacitated adult in violation of
1082 this section and the abuse or neglect results in the death of the incapacitated adult is guilty of a Class 3
1083 felony.

1084 C. For purposes of this section:

1085 "Abuse" means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing
1086 and willful use of physical restraint, including confinement, as punishment, for convenience or as a
1087 substitute for treatment, except where such conduct or physical restraint, including confinement, is a part
1088 of care or treatment and is in furtherance of the health and safety of the incapacitated person.

1089 "Incapacitated adult" means any person 18 years of age or older who is impaired by reason of mental
1090 illness, ~~mental retardation~~ intellectual disability, physical illness or disability, advanced age or other
1091 causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry
1092 out reasonable decisions concerning his well-being.

1093 "Neglect" means the knowing and willful failure by a responsible person to provide treatment, care,
1094 goods or services which results in injury to the health or endangers the safety of an incapacitated adult.

1095 "Responsible person" means a person who has responsibility for the care, custody or control of an
1096 incapacitated person by operation of law or who has assumed such responsibility voluntarily, by contract
1097 or in fact.

1098 "Serious bodily injury or disease" shall include but not be limited to (i) disfigurement, (ii) a fracture,
1099 (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life-threatening internal injuries or
1100 conditions, whether or not caused by trauma.

1101 D. No responsible person shall be in violation of this section whose conduct was (i) in accordance
1102 with the informed consent of the incapacitated person or a person authorized to consent on his behalf;
1103 (ii) in accordance with a declaration by the incapacitated person under the Natural Death Act of Virginia
1104 (§ 54.1-2981 et seq.) or with the provisions of a valid medical power of attorney; (iii) in accordance

with the wishes of the incapacitated person or a person authorized to consent on behalf of the incapacitated person and in accord with the tenets and practices of a church or religious denomination; (iv) incident to necessary movement of, placement of or protection from harm to the incapacitated person; or (v) a bona fide, recognized or approved practice to provide medical care.

§ 19.2-123. Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who has previously been convicted of a felony, or who is presently on bond for an unrelated arrest in any jurisdiction, or who is on probation or parole, may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § 16.1-233;

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a period not to exceed 72 hours;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;

3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case;

3b. Place a prohibition on a person who holds an elected constitutional office and who is accused of a felony arising from the performance of his duties from physically returning to his constitutional office; or

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § 53.1-131.2 or, when the person is required to execute a secured bond, be subject to monitoring by a GPS (Global Positioning System) tracking device, or other similar device. The defendant may be ordered by the court to pay the cost of the device.

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith.

In addition, where the accused is a resident of a state training center for ~~the mentally retarded individuals with intellectual disability~~, the judicial officer may place the ~~person individual~~ in the custody of the director of the ~~state facility training center~~, if the director agrees to accept custody. ~~Such~~ The director is hereby authorized to take custody of ~~such person the individual~~ and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § 9.1-101 and, in cases where a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall

consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings or revocation of release. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C. [Repealed.]

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § 16.1-247. If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a *capias* or order to show cause why the recognizance should not be revoked.

E. Nothing in this section shall be construed to prevent a court from imposing a recognizance or bond designed to secure a spousal or child support obligation pursuant to § 16.1-278.16, Chapter 5 (§ 20-61 et seq.) of Title 20, or § 20-114 in addition to any recognizance or bond imposed pursuant to this chapter.

§ 19.2-182.2. Verdict of acquittal by reason of insanity to state the fact; temporary custody and evaluation.

When the defense is insanity of the defendant at the time the offense was committed, the jurors shall be instructed, if they acquit him on that ground, to state the fact with their verdict. The court shall place the person so acquitted (the acquittee) in temporary custody of the Commissioner of Behavioral Health and Developmental Services (hereinafter referred to in this chapter as the Commissioner) for evaluation as to whether the acquittee may be released with or without conditions or requires commitment. The evaluation shall be conducted by (i) one psychiatrist and (ii) one clinical psychologist. The psychiatrist or clinical psychologist shall be skilled in the diagnosis of mental illness and ~~mental retardation~~ *intellectual disability* and qualified by training and experience to perform such evaluations. The Commissioner shall appoint both evaluators, at least one of whom shall not be employed by the hospital in which the acquittee is primarily confined. The evaluators shall determine whether the acquittee currently has mental illness or ~~mental retardation~~ *intellectual disability* and shall assess the acquittee and report on his condition and need for hospitalization with respect to the factors set forth in § 19.2-182.3. The evaluators shall conduct their examinations and report their findings separately within ~~forty-five~~ 45 days of the Commissioner's assumption of custody. Copies of the report shall be sent to the acquittee's attorney, the attorney for the Commonwealth for the jurisdiction where the person was acquitted and the community services board or behavioral health authority as designated by the Commissioner. If either evaluator recommends conditional release or release without conditions of the acquittee, the court shall extend the evaluation period to permit the hospital in which the acquittee is confined and the appropriate community services board or behavioral health authority to jointly prepare a conditional release or discharge plan, as applicable, prior to the hearing.

§ 19.2-182.3. Commitment; civil proceedings.

Upon receipt of the evaluation report and, if applicable, a conditional release or discharge plan, the court shall schedule the matter for hearing on an expedited basis, giving the matter priority over other civil matters before the court, to determine the appropriate disposition of the acquittee. Except as otherwise ordered by the court, the attorney who represented the defendant at the criminal proceedings shall represent the acquittee through the proceedings pursuant to this section. The matter may be continued on motion of either party for good cause shown. The acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of counsel in preparation for and during the hearing, and the right to introduce evidence and cross-examine witnesses at the hearing. The hearing is a civil proceeding.

At the conclusion of the hearing, the court shall commit the acquittee if it finds that he has mental illness or ~~mental retardation~~ *intellectual disability* and is in need of inpatient hospitalization. For the purposes of this chapter, mental illness includes any mental illness, as defined in § 37.2-100, in a state of remission when the illness may, with reasonable probability, become active. The decision of the court shall be based upon consideration of the following factors:

1. To what extent the acquittee has mental illness or ~~mental retardation~~ *intellectual disability*, as those terms are defined in § 37.2-100;

2. The likelihood that the acquittee will engage in conduct presenting a substantial risk of bodily harm to other persons or to himself in the foreseeable future;

3. The likelihood that the acquittee can be adequately controlled with supervision and treatment on an outpatient basis; and

4. Such other factors as the court deems relevant.

If the court determines that an acquittee does not need inpatient hospitalization solely because of treatment or habilitation he is currently receiving, but the court is not persuaded that the acquittee will continue to receive such treatment or habilitation, it may commit him for inpatient hospitalization. The court shall order the acquittee released with conditions pursuant to §§ 19.2-182.7 through 19.2-182.9 if it finds that he is not in need of inpatient hospitalization but that he meets the criteria for conditional release set forth in § 19.2-182.7. If the court finds that the acquittee does not need inpatient hospitalization nor does he meet the criteria for conditional release, it shall release him without conditions, provided the court has approved a discharge plan prepared by the appropriate community services board or behavioral health authority in consultation with the appropriate hospital staff.

§ 19.2-182.8. Revocation of conditional release.

If at any time the court that released an acquittee pursuant to § 19.2-182.7 finds reasonable ground to believe that an acquittee on conditional release (i) has violated the conditions of his release or is no longer a proper subject for conditional release based on application of the criteria for conditional release and (ii) requires inpatient hospitalization, it may order an evaluation of the acquittee by a psychiatrist or clinical psychologist, provided the psychiatrist or clinical psychologist is qualified by training and experience to perform forensic evaluations. If the court, based on the evaluation and after hearing evidence on the issue, finds by a preponderance of the evidence that an acquittee on conditional release (i) ~~(a)~~ has violated the conditions of his release or is no longer a proper subject for conditional release based on application of the criteria for conditional release and ~~(ii)~~ is ~~mentally ill or mentally retarded~~ *(b) has mental illness or intellectual disability* and requires inpatient hospitalization, the court may revoke the acquittee's conditional release and order him returned to the custody of the Commissioner.

At any hearing pursuant to this section, the acquittee shall be provided with adequate notice of the hearing, of the right to be present at the hearing, the right to the assistance of counsel in preparation for and during the hearing, and the right to introduce evidence and cross-examine witnesses at the hearing. The hearing shall be scheduled on an expedited basis and shall be given priority over other civil matters before the court. Written notice of the hearing shall be provided to the attorney for the Commonwealth for the committing jurisdiction. The hearing is a civil proceeding.

§ 19.2-182.9. Emergency custody of conditionally released acquittee.

When exigent circumstances do not permit compliance with revocation procedures set forth in § 19.2-182.8, any district court judge or a special justice, as defined in § 37.2-100, or a magistrate may issue an emergency custody order, upon the sworn petition of any responsible person or upon his own motion based upon probable cause to believe that an acquittee on conditional release (i) has violated the conditions of his release or is no longer a proper subject for conditional release and (ii) requires inpatient hospitalization. The emergency custody order shall require the acquittee within his judicial district to be taken into custody and transported to a convenient location where a person designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness shall evaluate such acquittee and assess his need for inpatient hospitalization. A law-enforcement officer who, based on his observation or the reliable reports of others, has probable cause to believe that any acquittee on conditional release has violated the conditions of his release and is no longer a proper subject for conditional release and requires emergency evaluation to assess the need for inpatient hospitalization, may take the acquittee into custody and transport him to an appropriate location to assess the need for hospitalization without prior judicial authorization. The evaluation shall be conducted immediately. The acquittee shall remain in custody until a temporary detention order is issued or until he is released, but in no event shall the period of custody exceed four hours. However, upon a finding by a district court judge, special justice as defined in § 37.2-100, or magistrate that good cause exists to grant an extension, the district court judge, special justice, or magistrate shall extend the emergency custody order, or shall issue an order extending the period of emergency custody, one time for an additional period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (a) the community services board to identify a suitable facility in which the person can be temporarily detained pursuant to this section or (b) a medical evaluation of the person to be completed if necessary. If it appears from all evidence readily available (i) that the acquittee has violated the conditions of his release or is no longer a proper subject for conditional release and (ii) that he requires emergency evaluation to assess the need for inpatient hospitalization, the district court judge or a special justice, as defined in § 37.2-100, or magistrate, upon the advice of such person skilled in the diagnosis and treatment of mental illness, may issue a temporary detention order authorizing the executing officer to place the acquittee in an appropriate institution for a period not to exceed 48 hours

1289 prior to a hearing. If the 48-hour period terminates on a Saturday, Sunday, legal holiday, or day on
1290 which the court is lawfully closed, the acquittee may be detained until the next day which is not a
1291 Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

1292 The committing court or any district court judge or a special justice, as defined in § 37.2-100, shall
1293 have jurisdiction to hear the matter. Prior to the hearing, the acquittee shall be examined by a
1294 psychiatrist or licensed clinical psychologist, provided the psychiatrist or clinical psychologist is skilled
1295 in the diagnosis of mental illness, who shall certify whether the person is in need of hospitalization. At
1296 the hearing the acquittee shall be provided with adequate notice of the hearing, of the right to be present
1297 at the hearing, the right to the assistance of counsel in preparation for and during the hearing, and the
1298 right to introduce evidence and cross-examine witnesses at the hearing. Following the hearing, if the
1299 court determines, based on a preponderance of the evidence presented at the hearing, that the acquittee
1300 (i) has violated the conditions of his release or is no longer a proper subject for conditional release and
1301 (ii) has mental illness or ~~mental retardation~~ *intellectual disability* and is in need of inpatient
1302 hospitalization, the court shall revoke the acquittee's conditional release and place him in the custody of
1303 the Commissioner.

1304 When an acquittee on conditional release pursuant to this chapter is taken into emergency custody,
1305 detained, or hospitalized, such action shall be considered to have been taken pursuant to this section,
1306 notwithstanding the fact that his status as an insanity acquittee was not known at the time of custody,
1307 detention, or hospitalization. Detention or hospitalization of an acquittee pursuant to provisions of law
1308 other than those applicable to insanity acquittees pursuant to this chapter shall not render the detention
1309 or hospitalization invalid. If a person's status as an insanity acquittee on conditional release is not
1310 recognized at the time of emergency custody or detention, at the time his status as such is verified, the
1311 provisions applicable to such persons shall be applied and the court hearing the matter shall notify the
1312 committing court of the proceedings.

1313 § 19.2-218.1. Preliminary hearings involving certain sexual crimes against spouses.

1314 A. In any preliminary hearing of a charge for a violation under § 18.2-61, 18.2-67.1, or 18.2-67.2
1315 where the complaining witness is the spouse of the accused, upon a finding of probable cause the court
1316 may request that its court services unit, in consultation with any appropriate social services organization,
1317 local ~~board of mental health and mental retardation~~ *community services board*, or other community
1318 mental health services organization, prepare a report analyzing the feasibility of providing counseling or
1319 other forms of therapy for the accused and the probability such treatment will be successful. Based upon
1320 this report and any other relevant evidence, the court may, with the consent of the accused, the
1321 complaining witness and the attorney for the Commonwealth in any case involving a violation of
1322 § 18.2-61, 18.2-67.1 or 18.2-67.2, authorize the accused to submit to and complete a designated course
1323 of counseling or therapy. In such case, the hearing shall be adjourned until such time as counseling or
1324 therapy is completed or terminated. Upon the completion of counseling or therapy by the accused and
1325 after consideration of a final evaluation to be furnished to the court by the person responsible for
1326 conducting such counseling or therapy and such further report of the court services unit as the court
1327 may require, and after consideration of the views of the complaining witness, the court, in its discretion,
1328 may discharge the accused if the court finds such action will promote maintenance of the family unit
1329 and be in the best interest of the complaining witness.

1330 B. No statement or disclosure by the accused concerning the alleged offense made during counseling
1331 or any other form of therapy ordered pursuant to this section or § 18.2-61, 18.2-67.1, 18.2-67.2, or
1332 19.2-218.2 may be used against the accused in any trial as evidence, nor shall any evidence against the
1333 accused be admitted which was discovered through such statement or disclosure.

1334 § 19.2-389. Dissemination of criminal history record information.

1335 A. Criminal history record information shall be disseminated, whether directly or through an
1336 intermediary, only to:

1337 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
1338 purposes of the administration of criminal justice and the screening of an employment application or
1339 review of employment by a criminal justice agency with respect to its own employees or applicants, and
1340 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
1341 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
1342 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

1343 2. Such other individuals and agencies that require criminal history record information to implement
1344 a state or federal statute or executive order of the President of the United States or Governor that
1345 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
1346 conduct, except that information concerning the arrest of an individual may not be disseminated to a
1347 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
1348 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
1349 pending;

1350 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide

services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.) and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719 through 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to

1412 the limitations set out in subsection E;

1413 16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers
1414 for the conduct of investigations of applicants for compensated employment in licensed homes for adults
1415 pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed
1416 adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1417 17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in
1418 § 4.1-103.1;

1419 18. The State Board of Elections and authorized officers and employees thereof in the course of
1420 conducting necessary investigations with respect to registered voters, limited to any record of felony
1421 convictions;

1422 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1423 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1424 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1425 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1426 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1427 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1428 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1429 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1430 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1431 services;

1432 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1433 Department for the purpose of determining an individual's fitness for employment pursuant to
1434 departmental instructions;

1435 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious
1436 elementary or secondary schools which are accredited by a statewide accrediting organization
1437 recognized, prior to January 1, 1996, by the State Board of Education or a private organization
1438 coordinating such records information on behalf of such governing boards or administrators pursuant to
1439 a written agreement with the Department of State Police;

1440 24. Public and nonprofit private colleges and universities for the purpose of screening individuals
1441 who are offered or accept employment;

1442 25. Members of a threat assessment team established by a public institution of higher education
1443 pursuant to § 23-9.2:10, for the purpose of assessing or intervening with an individual whose behavior
1444 may present a threat to safety;

1445 26. Executive directors of community services boards or the personnel director serving the
1446 community services board for the purpose of determining an individual's fitness for employment
1447 pursuant to §§ 37.2-506 and 37.2-607;

1448 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1449 determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

1450 28. The Commissioner of the Department of Social Services for the purpose of locating persons who
1451 owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided
1452 that only the name, address, demographics and social security number of the data subject shall be
1453 released;

1454 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1455 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1456 purpose of determining if any applicant who accepts employment in any direct consumer care position
1457 has been convicted of a crime that affects ~~their~~ *his* fitness to have responsibility for the safety and
1458 well-being of ~~persons~~ *individuals* with mental illness, ~~mental retardation and intellectual disability~~, or
1459 substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

1460 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1461 for a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.)
1462 and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1463 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1464 for the purpose of determining if any person being considered for election to any judgeship has been
1465 convicted of a crime;

1466 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1467 determining an individual's fitness for employment in positions designated as sensitive under Department
1468 of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal
1469 history record information to the agencies shall be limited to those positions generally described as
1470 directly responsible for the health, safety and welfare of the general populace or protection of critical
1471 infrastructures;

1472 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1473 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually

Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are members, senior officers, directors, and principals of an applicant for licensure as a mortgage lender or mortgage broker, or a licensed mortgage lender or mortgage broker for the purpose of investigating individuals applying for a position of employment in which the individual may have access to or process personal identifying or financial information from a member of the public, pursuant to Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application for a mortgage lender or mortgage broker license is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department of Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Chapter 5 (§ 51.5-15 et seq.) of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120; and

42. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request; provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

§ 22.1-7. Responsibility of each state board, agency and institution having children in residence or in custody.

Each state board, state agency and state institution having children in residence or in custody shall have responsibility for providing for the education and training to such children which is at least comparable to that which would be provided to such children in the public school system. Such board, agency or institution may provide such education and training either directly with its own facilities and personnel in cooperation with the Board of Education or under contract with a school division or any other public or private nonreligious school, agency or institution. The Board of Education shall supervise the education and training provided to school-age residents in state ~~mental retardation facilities~~ *training centers* and shall provide for and direct the education for school-age residents in state ~~mental health facilities~~ *hospitals operated by the Department of Behavioral Health and Developmental Services* in cooperation with the Department of Behavioral Health and Developmental Services. The Board shall prescribe standards and regulations for all such education and training provided directly by a state board, state agency or state institution. Each state board, state agency or state institution providing such education and training shall submit annually its program therefor to the Board of Education for approval in accordance with regulations of the Board. If any child in the custody of any state board, state agency or state institution is a child with disabilities as defined in § 22.1-213 and such board, agency or institution must contract with a private nonreligious school to provide special education as defined in § 22.1-213 for such child, the state board, state agency or state institution may proceed as a guardian pursuant to the provisions of subsection A of § 22.1-218.

§ 22.1-213. Definitions.

As used in this article:

"Children with disabilities" means those persons (i) who are ~~aged age two to twenty-one~~ *21*, inclusive, having reached the age of two by the date specified in § 22.1-254, (ii) who ~~are mentally retarded, have intellectual disability or serious emotional disturbance, or are~~ physically disabled; ~~seriously emotionally disturbed,~~ speech impaired, hearing impaired, visually impaired, or multiple disabled, ~~other or are otherwise~~ health impaired, including ~~autistic or those who have autism spectrum disorder or~~ a specific learning disability or ~~who~~ are otherwise disabled as defined by the Board of Education, and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a disabled child to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent, to meet the unique needs of a disabled child, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education and instruction in career and technical education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term does not include children who have learning problems that are primarily the result of visual, hearing or motor handicaps, of ~~mental retardation~~ *intellectual disability*, or of environmental, cultural or economic disadvantage.

§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.

The Department of Education shall develop curricula for the school-age residents of the state training centers for individuals with mental retardation and curriculum guidelines for the school-age residents of the state mental health facilities hospitals operated by the Department of Behavioral Health and Developmental Services in cooperation with the Department of Behavioral Health and Developmental Services and representatives of the teachers employed to provide instruction to the children. Prior to implementation, the Board of Education shall approve these curricula and curriculum guidelines.

These curricula and curriculum guidelines shall be designed to provide a range of programs and suggested program sequences for different functioning levels and handicaps and shall be reviewed and revised at least every three years. In addition to academic programming, the curriculum guidelines for the school-age residents of the state mental health facilities hospitals operated by the Department of Behavioral Health and Developmental Services shall include affective education and physical education as well as independent living and career and technical education, with particular emphasis on the needs of older adolescents and young adults.

§ 22.1-217.1. Programs for the research and development of innovative methods of teaching children with mental illness, intellectual disability, or serious emotional disturbance.

For the purpose of improving the quality of the education and training provided to the school-age residents of the state mental health and mental retardation facilities hospitals and training centers operated by the Department of Behavioral Health and Developmental Services, there is hereby established a program of grants, from such funds as are appropriated by the General Assembly, to promote the research and development of innovative methods of teaching children with mental illness, mental retardation intellectual disability, or serious emotional disturbance in residential settings. This program shall be available to the education directors and instructional staffs of the institutions administered state hospitals and training centers operated by the Department of Behavioral Health and Developmental Services. The Board of Education shall award these grants on the basis of the recommendations of an advisory committee composed of the Director of the Virginia Treatment Center for Children, two representatives of the Department of Education and two representatives of the Department of Behavioral Health and Developmental Services. The advisory committee shall establish objectives for these grants, develop requests for proposals and set criteria for evaluating the applications for funds.

§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with mental retardation intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State

1658 funding for prevention, intervention, and remediation programs provided pursuant to this subsection and
1659 the appropriation act may be used to support programs for educationally at-risk students as identified by
1660 the local school boards.

1661 To provide flexibility in the provision of mathematics intervention services, school divisions may use
1662 the Standards of Learning Algebra Readiness Initiative funding and the required local matching funds to
1663 employ mathematics teacher specialists to provide the required mathematics intervention services. School
1664 divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only
1665 employ instructional personnel licensed by the Board of Education.

1666 F. In addition to the positions supported by basic aid and those in support of regular school year
1667 programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act,
1668 shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students
1669 identified as having limited English proficiency.

1670 To provide flexibility in the instruction of English language learners who have limited English
1671 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
1672 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
1673 employ additional English language learner teachers to provide instruction to identified limited English
1674 proficiency students. Using these funds in this manner is intended to supplement the instructional
1675 services provided in this section. School divisions using the SOQ Prevention, Intervention, and
1676 Remediation funds in this manner shall employ only instructional personnel licensed by the Board of
1677 Education.

1678 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
1679 school board shall employ the following reading specialists in elementary schools, one full-time in each
1680 elementary school at the discretion of the local school board.

1681 To provide flexibility in the provision of reading intervention services, school divisions may use the
1682 state Early Reading Intervention Initiative funding and the required local matching funds to employ
1683 reading specialists to provide the required reading intervention services. School divisions using the Early
1684 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed
1685 by the Board of Education.

1686 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions
1687 for any school that reports fall membership, according to the type of school and student enrollment:

1688 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students;
1689 principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high
1690 schools, one full-time, to be employed on a 12-month basis;

1691 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
1692 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals
1693 in high schools, one full-time for each 600 students; and school divisions that employ a sufficient
1694 number of assistant principals to meet this staffing requirement may assign assistant principals to schools
1695 within the division according to the area of greatest need, regardless of whether such schools are
1696 elementary, middle, or secondary;

1697 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
1698 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time
1699 at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students,
1700 two full-time at 1,000 students; and

1701 4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at
1702 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance
1703 counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional
1704 period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70
1705 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof.

1706 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades
1707 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

1708 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades
1709 kindergarten through 12, one to provide technology support and one to serve as an instructional
1710 technology resource teacher.

1711 To provide flexibility, school divisions may use the state and local funds for instructional technology
1712 resource teachers to employ a data coordinator position, an instructional technology resource teacher
1713 position, or a data coordinator/instructional resource teacher blended position. The data coordinator
1714 position is intended to serve as a resource to principals and classroom teachers in the area of data
1715 analysis and interpretation for instructional and school improvement purposes, as well as for overall data
1716 management and administration of state assessments. School divisions using these funds in this manner
1717 shall employ only instructional personnel licensed by the Board of Education.

1718 K. Local school boards may employ additional positions that exceed these minimal staffing
1719 requirements. These additional positions may include, but are not limited to, those funded through the

state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;

2. Fiscal and human resources positions, including fiscal and audit operations;

3. Student support positions, including (i) social workers and social work administrative positions; (ii) guidance administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;

4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;

5. Technology professional positions not included in subsection J;

6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;

7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and

8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

§ 22.1-319. Definitions.

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

"Board" means the Virginia Board of Education.

"Department" means the Department of Education.

"Person" means any individual, group of individuals, partnership, association, business trust, corporation, or other business entity.

1781 "School for students with disabilities" or "school" or "schools" means a privately owned and operated
 1782 preschool, school, or educational organization, no matter how titled, maintained or conducting classes for
 1783 the purpose of offering instruction, for a consideration, profit or tuition, to persons determined to have
 1784 autism, deaf-blindness, a developmental delay, a hearing impairment including deafness, ~~mental~~
 1785 ~~retardation~~ *intellectual disability*, multiple disabilities, an orthopedic impairment, other health
 1786 impairment, an emotional disturbance, a severe disability, a specific learning disability, a speech or
 1787 language impairment, a traumatic brain injury, or a visual impairment including blindness.

1788 "Superintendent" means the Superintendent of Public Instruction.

1789 § 23-38.2. Virginia Behavioral Health and Developmental Services Scholarship Fund.

1790 (a) A. There is hereby established a fund, to be known as the Virginia Behavioral Health and
 1791 Developmental Services Scholarship Fund, which shall consist of funds appropriated to it from time to
 1792 time by the General Assembly and which shall be administered by the Department of Behavioral Health
 1793 and Developmental Services, for the purpose of providing scholarships for study in various professions
 1794 and skills that deal with the treatment, training and care of individuals with mental illness and ~~mental~~
 1795 ~~retardation~~ *intellectual disability*.

1796 (b) B. The State Board of Behavioral Health and Developmental Services shall ~~promulgate~~ *adopt* the
 1797 necessary rules and regulations, not inconsistent with other laws, for the implementation of this section.
 1798 Such rules and regulations shall provide:

1799 (1) 1. That scholarships be awarded for a period no longer than one year, but that certain
 1800 scholarships may be reawarded not more than two times;

1801 (2) 2. That persons who receive such scholarships agree to serve in state employment upon
 1802 completion of training for a period at least as long as the length of training provided by the scholarship,
 1803 and that if they do not fulfill this agreement they shall repay to the Commonwealth the amount of the
 1804 scholarship with interest;

1805 (3) 3. That priorities be given for training in professions and skills where shortages exist and are
 1806 anticipated in state ~~mental health and mental retardation institutions~~ *hospitals and training centers*; and

1807 (4) 4. That priorities be given to citizens of ~~this~~ *the* Commonwealth.

1808 (c) C. The Commissioner of Behavioral Health and Developmental Services is hereby authorized to
 1809 receive gifts, donations, bequests, and federal grants to the Virginia Behavioral Health and
 1810 Developmental Services Scholarship Fund.

1811 § 25.1-100. Definitions.

1812 As used in this title, unless the context requires a different meaning:

1813 "Appraisal" means a written statement independently and impartially prepared by a qualified
 1814 appraiser setting forth an opinion of defined value of an adequately described property as of a specific
 1815 date, supported by the presentation and analysis of relevant market information.

1816 "Body determining just compensation" means a panel of commissioners empanelled pursuant to
 1817 § 25.1-227.2, jury selected pursuant to § 25.1-229, or the court if neither a panel of commissioners nor a
 1818 jury is appointed or empanelled.

1819 "Court" means the court having jurisdiction as provided in § 25.1-201.

1820 "Date of valuation" means the time of the lawful taking by the petitioner, or the date of the filing of
 1821 the petition pursuant to § 25.1-205, whichever occurs first.

1822 "Freeholder" means any person owning an interest in land in fee, including a person owning a
 1823 condominium unit.

1824 "Land" means real estate and all rights and appurtenances thereto, together with the structures and
 1825 other improvements thereon, and any right, title, interest, estate or claim in or to real estate.

1826 "Locality" or "local government" means a county, city, or town, as the context may require.

1827 "Owner" means any person who owns property, provided that the person's ownership of the property
 1828 is of record in the land records of the clerk's office of the circuit court of the county or city where the
 1829 property is located. The term "owner" shall not include trustees or beneficiaries under a deed of trust,
 1830 any person with a security interest in the property, or any person with a judgment or lien against the
 1831 property. This definition of the term "owner" shall not affect in any way the valuation of property.

1832 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;
 1833 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in
 1834 bankruptcy or any other person acting in a fiduciary or representative capacity, whether appointed by a
 1835 court or otherwise; club, society or other group or combination acting as a unit; the Commonwealth or
 1836 any department, agency or instrumentality thereof; any city, county, town, or other political subdivision
 1837 or any department, agency or instrumentality thereof; or any interstate body to which the
 1838 Commonwealth is a party.

1839 "Petitioner" or "condemnor" means any person who possesses the power to exercise the right of
 1840 eminent domain and who seeks to exercise such power. The term "petitioner" or "condemnor" includes a
 1841 state agency.

1842 "Property" means land and personal property, and any right, title, interest, estate or claim in or to

such property.

"State agency" means any (i) department, agency or instrumentality of the Commonwealth; (ii) public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth or any department, agency or instrumentality thereof; (iii) person who has the authority to acquire property by eminent domain under state law; or (iv) two or more of the aforementioned that carry out projects that cause persons to be displaced.

"State institution" means any (i) educational institution enumerated in § 23-14 or (ii) state hospital or state training center ~~for individuals with mental retardation~~ operated by the Department of Behavioral Health and Developmental Services.

§ 32.1-59. Examination and treatment in certain institutions.

Every person admitted to any state correctional institution and every person ~~who is confined~~ *admitted* to a state hospital ~~for the mentally ill or mentally retarded~~ *or training center operated by the Department of Behavioral Health and Developmental Services* shall be examined and tested for venereal disease. If ~~any such~~ the person is found to be infected with a venereal disease, the person in charge of such institution ~~or state hospital or training center~~ shall promptly provide treatment and shall report such case as provided in § 32.1-37.

§ 32.1-65. Certain newborn screening required.

In order to prevent ~~mental retardation~~ *intellectual disability* and permanent disability or death, every infant who is born in the Commonwealth shall be subjected to screening tests for various disorders consistent with, but not necessarily identical to, the uniform condition panel recommended by the American College of Medical Genetics in its report, Newborn Screening: Toward a Uniform Screening Panel and System, that was produced for the U.S. Department of Health and Human Services. Further, upon the issuance of guidance for states' newborn screening programs by the ~~federal~~ *U.S.* Department of Health and Human Services, every infant who is born in the Commonwealth shall be screened for a panel of disorders consistent with, but not necessarily identical to, the federal guidance document.

Any infant whose parent or guardian objects thereto on the grounds that such tests conflict with his religious practices or tenets shall not be required to receive such screening tests.

The physician or certified nurse midwife in charge of the infant's care after delivery shall cause such tests to be performed. The screening tests shall be performed by the Division of Consolidated Laboratory Services or any other laboratory the Department of Health has contracted with to provide this service.

The program for screening infants for sickle cell diseases shall be conducted in addition to the programs provided for in Article 8 (§ 32.1-68 et seq.) ~~of this chapter~~.

§ 32.1-102.1. Definitions.

As used in this article, unless the context indicates otherwise:

"Certificate" means a certificate of public need for a project required by this article.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the Department of Behavioral Health and Developmental Services, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:

1. General hospitals.

2. Sanitariums.

3. Nursing homes.

4. Intermediate care facilities, except those intermediate care facilities established for individuals with ~~mental retardation~~ *intellectual disability (ICF/MR)* that have no more than 12 beds and are in an area identified as in need of residential services for individuals with ~~mental retardation~~ *intellectual disability* in any plan of the Department of Behavioral Health and Developmental Services.

5. Extended care facilities.

- 1904 6. Mental hospitals.
- 1905 7. ~~Mental retardation facilities~~ *Facilities for individuals with intellectual disability.*
- 1906 8. Psychiatric hospitals and intermediate care facilities established primarily for the medical,
- 1907 psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.
- 1908 9. Specialized centers or clinics or that portion of a physician's office developed for the provision of
- 1909 outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning,
- 1910 stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging
- 1911 (MSI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy,
- 1912 proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, or
- 1913 such other specialty services as may be designated by the Board by regulation.
- 1914 10. Rehabilitation hospitals.
- 1915 11. Any facility licensed as a hospital.
- 1916 The term "medical care facility" shall not include any facility of (i) the Department of Behavioral
- 1917 Health and Developmental Services; (ii) any nonhospital substance abuse residential treatment program
- 1918 operated by or contracted primarily for the use of a community services board under the Department of
- 1919 Behavioral Health and Developmental Services' Comprehensive State Plan; (iii) an intermediate care
- 1920 facility for individuals with ~~mental retardation~~ *intellectual disability (ICF/MR)* that has no more than 12
- 1921 beds and is in an area identified as in need of residential services for ~~people~~ *individuals* with ~~mental~~
- 1922 ~~retardation~~ *intellectual disability* in any plan of the Department of Behavioral Health and Developmental
- 1923 Services; (iv) a physician's office, except that portion of a physician's office described ~~above~~ in
- 1924 subdivision 9 of the definition of "medical care facility"; (v) the Woodrow Wilson Rehabilitation Center
- 1925 of the Department of Rehabilitative Services; (vi) the Department of Corrections; or (vii) the Department
- 1926 of Veterans Services. "Medical care facility" shall also not include that portion of a physician's office
- 1927 dedicated to providing nuclear cardiac imaging.
- 1928 "Project" means:
- 1929 1. Establishment of a medical care facility;
- 1930 2. An increase in the total number of beds or operating rooms in an existing medical care facility;
- 1931 3. Relocation of beds from one existing facility to another; provided that "project" shall not include
- 1932 the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing
- 1933 facility to another existing facility at the same site in any two-year period, or (ii) in any three-year
- 1934 period, from one existing nursing home facility to any other existing nursing home facility owned or
- 1935 controlled by the same person that is located either within the same planning district, or within another
- 1936 planning district out of which, during or prior to that three-year period, at least 10 times that number of
- 1937 beds have been authorized by statute to be relocated from one or more facilities located in that other
- 1938 planning district and at least half of those beds have not been replaced; provided further that, however, a
- 1939 hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing
- 1940 home beds as provided in § 32.1-132;
- 1941 4. Introduction into an existing medical care facility of any new nursing home service, such as
- 1942 intermediate care facility services, extended care facility services, or skilled nursing facility services,
- 1943 regardless of the type of medical care facility in which those services are provided;
- 1944 5. Introduction into an existing medical care facility of any new cardiac catheterization, computed
- 1945 tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI),
- 1946 magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart
- 1947 surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service,
- 1948 radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for
- 1949 the purpose of nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical
- 1950 services as may be designated by the Board by regulation, which the facility has never provided or has
- 1951 not provided in the previous 12 months;
- 1952 6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or
- 1953 psychiatric beds;
- 1954 7. The addition by an existing medical care facility of any medical equipment for the provision of
- 1955 cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy,
- 1956 magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron
- 1957 emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy,
- 1958 or other specialized service designated by the Board by regulation. Replacement of existing equipment
- 1959 shall not require a certificate of public need;
- 1960 8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1
- 1961 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures
- 1962 between \$5 and \$15 million shall be registered with the Commissioner pursuant to regulations developed
- 1963 by the Board. The amounts specified in this subdivision shall be revised effective July 1, 2008, and
- 1964 annually thereafter to reflect inflation using appropriate measures incorporating construction costs and
- 1965 medical inflation; or

9. Conversion in an existing medical care facility of psychiatric inpatient beds approved under § 32.1-102.3:2 to nonpsychiatric inpatient beds.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform the health planning activities set forth in this chapter within a health planning region.

"State Medical Facilities Plan" means the planning document adopted by the Board of Health which shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services.

§ 32.1-127.01. Regulations to authorize certain sanctions and guidelines.

The regulations established pursuant to § 32.1-127 shall authorize the Commissioner to initiate court proceedings against nursing homes and certified nursing facilities, except for facilities or units certified as facilities for ~~the mentally retarded individuals with intellectual disability~~. Such proceedings may be initiated by themselves or in conjunction with the administrative sanctions provided in § 32.1-135.

The Board shall promulgate guidelines for the Commissioner to determine when the imposition of administrative sanctions or initiation of court proceedings as specified in § 32.1-27.1, or both, are appropriate in order to ensure prompt correction of violations involving noncompliance with requirements of state or federal law or regulation as discovered on any inspection conducted by the Department of Health pursuant to the provisions of this article or the provisions of Title XVIII or Title XIX of the Social Security Act or as discovered on any inspection conducted by the Department of Medical Assistance Services pursuant to Title XIX of the Social Security Act.

§ 32.1-283. (Effective until July 1, 2012) Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, other correctional institution or in police custody, or who is a patient or resident of a state ~~mental health or mental retardation facility~~ *hospital or training center operated by the Department of Behavioral Health and Developmental Services*, or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden death of any infant less than ~~eighteen~~ 18 months of age whose death is suspected to be attributable to Sudden Infant Death Syndrome (SIDS), the medical examiner of the county or city in which death occurs shall be notified by the physician in attendance, hospital, law-enforcement officer, funeral director or any other person having knowledge of such death. Good faith efforts shall be made by such person or institution having custody of the dead body to identify and to notify the next of kin of the decedent. Notification shall include informing the person presumed to be the next of kin that he has a right to have identification of the decedent confirmed without due delay and without being held financially responsible for any procedures performed for the purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Chief Medical Examiner upon transfer of the dead body.

B. Upon being notified of a death as provided in subsection A, the medical examiner shall take charge of the dead body, make an investigation into the cause and manner of death, reduce his findings to writing, and promptly make a full report to the Chief Medical Examiner. In order to facilitate his investigation, the medical examiner is authorized to inspect and copy the pertinent medical records of the decedent whose death he is investigating. Full directions as to the nature, character and extent of the investigation to be made in such cases shall be furnished each medical examiner by the Chief Medical Examiner, together with appropriate forms for the required reports and instructions for their use. The facilities and personnel under the Chief Medical Examiner shall be made available to medical examiners in such investigations. Reports and findings of the Medical Examiner shall be confidential and shall not under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Chief Medical Examiner from releasing the cause or manner of death, or prohibit disclosure of reports or findings to the parties in a criminal case.

C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of any such report regarding the death of a victim of a traffic accident shall be furnished upon request to the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report concerning a patient or resident of a state ~~mental health or mental retardation facility~~ *hospital or training center operated by the Department of Behavioral Health and Developmental Services* shall be delivered to the Commissioner of Behavioral Health and Developmental Services and to the Inspector General for Behavioral Health and Developmental Services. A copy of any autopsy report concerning a prisoner committed to the custody of the Director of the Department of Corrections shall, upon request

2027 of the Director of the Department of Corrections, be delivered to the Director of the Department of
2028 Corrections. A copy of any autopsy report concerning a prisoner committed to any local correctional
2029 facility shall be delivered to the local sheriff or superintendent. Upon request, the Chief Medical
2030 Examiner shall release such autopsy report to the decedent's attending physician and to the personal
2031 representative or executor of the decedent or, if no personal representative or executor is appointed, then
2032 at the discretion of the Chief Medical Examiner, to the following persons in the following order of
2033 priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent
2034 of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in
2035 order of blood relationship, or (vi) any appropriate health facility quality assurance program.

2036 D. For each investigation under this article, including the making of the required reports, the medical
2037 examiner shall receive a fee established by the Board within the limitations of appropriations for the
2038 purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the
2039 county or city in which his death occurred. In the event the deceased is a legal resident of the county or
2040 city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the
2041 deceased is a patient or resident of a state ~~mental health or mental retardation facility~~ *hospital or*
2042 *training center operated by the Department of Behavioral Health and Developmental Services*, the fee
2043 shall be paid by the Department of Behavioral Health and Developmental Services.

2044 E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine
2045 obtaining of consent for removal of organs as conducted by surgical teams or others.

2046 § 32.1-283. (Effective July 1, 2012) Investigation of deaths; obtaining consent to removal of organs,
2047 etc.; fees.

2048 A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or
2049 homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail,
2050 prison, other correctional institution or in police custody, or who is a patient or resident of a state
2051 ~~mental health or mental retardation facility~~ *hospital or training center operated by the Department of*
2052 *Behavioral Health and Developmental Services*, or suddenly as an apparent result of fire, or in any
2053 suspicious, unusual or unnatural manner, or the sudden death of any infant less than ~~eighteen~~ 18 months
2054 of age whose death is suspected to be attributable to Sudden Infant Death Syndrome (SIDS), the medical
2055 examiner of the county or city in which death occurs shall be notified by the physician in attendance,
2056 hospital, law-enforcement officer, funeral director or any other person having knowledge of such death.
2057 Good faith efforts shall be made by such person or institution having custody of the dead body to
2058 identify and to notify the next of kin of the decedent. Notification shall include informing the person
2059 presumed to be the next of kin that he has a right to have identification of the decedent confirmed
2060 without due delay and without being held financially responsible for any procedures performed for the
2061 purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Chief
2062 Medical Examiner upon transfer of the dead body.

2063 B. Upon being notified of a death as provided in subsection A, the medical examiner shall take
2064 charge of the dead body, make an investigation into the cause and manner of death, reduce his findings
2065 to writing, and promptly make a full report to the Chief Medical Examiner. In order to facilitate his
2066 investigation, the medical examiner is authorized to inspect and copy the pertinent medical records of
2067 the decedent whose death he is investigating. Full directions as to the nature, character and extent of the
2068 investigation to be made in such cases shall be furnished each medical examiner by the Chief Medical
2069 Examiner, together with appropriate forms for the required reports and instructions for their use. The
2070 facilities and personnel under the Chief Medical Examiner shall be made available to medical examiners
2071 in such investigations. Reports and findings of the Medical Examiner shall be confidential and shall not
2072 under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or
2073 otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Chief Medical
2074 Examiner from releasing the cause or manner of death, or prohibit disclosure of reports or findings to
2075 the parties in a criminal case.

2076 C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for
2077 the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of
2078 any such report regarding the death of a victim of a traffic accident shall be furnished upon request to
2079 the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report
2080 concerning a patient or resident of a state ~~mental health or mental retardation facility~~ *hospital or*
2081 *training center operated by the Department of Behavioral Health and Developmental Services* shall be
2082 delivered to the Commissioner of Behavioral Health and Developmental Services and to the State
2083 Inspector General. A copy of any autopsy report concerning a prisoner committed to the custody of the
2084 Director of the Department of Corrections shall, upon request of the Director of the Department of
2085 Corrections, be delivered to the Director of the Department of Corrections. A copy of any autopsy report
2086 concerning a prisoner committed to any local correctional facility shall be delivered to the local sheriff
2087 or superintendent. Upon request, the Chief Medical Examiner shall release such autopsy report to the
2088 decedent's attending physician and to the personal representative or executor of the decedent or, if no

personal representative or executor is appointed, then at the discretion of the Chief Medical Examiner, to the following persons in the following order of priority: (i) the spouse of the decedent, (ii) an adult son or daughter of the decedent, (iii) either parent of the decedent, (iv) an adult sibling of the decedent, (v) any other adult relative of the decedent in order of blood relationship, or (vi) any appropriate health facility quality assurance program.

D. For each investigation under this article, including the making of the required reports, the medical examiner shall receive a fee established by the Board within the limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth, if the deceased is not a legal resident of the county or city in which his death occurred. In the event the deceased is a legal resident of the county or city in which his death occurred, such county or city shall be responsible for the fee up to \$20. If the deceased is a patient or resident of a state ~~mental health or mental retardation facility~~ *hospital or training center operated by the Department of Behavioral Health and Developmental Services*, the fee shall be paid by the Department of Behavioral Health and Developmental Services.

E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine obtaining of consent for removal of organs as conducted by surgical teams or others.

§ 32.1-323.2. Elimination of waiting lists for certain waivers.

It is the intent of the General Assembly to eliminate the waiting lists for services pursuant to the ~~Mental Retardation Intellectual Disability~~ Medicaid Waiver and the Individual and Family Developmental Disabilities and Support Medicaid Waiver.

In furtherance of this intent, beginning with the fiscal year starting July 1, 2010, and for each fiscal year thereafter, the Department of Medical Assistance Services shall add (i) at least 400 additional funded slots per fiscal year for the ~~Mental Retardation Intellectual Disability~~ Medicaid Waiver, and (ii) at least 67 additional funded slots per fiscal year for the Individual and Family Developmental Disabilities and Support Medicaid Waiver, until the waiting lists for the ~~Mental Retardation Intellectual Disability~~ Medicaid Waiver and the Individual and Family Developmental Disabilities and Support Medicaid Waiver have been eliminated.

In addition, the Governor shall develop a plan to eliminate the waiting lists for services provided to individuals on the ~~Mental Retardation Intellectual Disability~~ Medicaid Waiver and the Individual and Family Developmental Disabilities and Support Medicaid Waiver by the 2018-2020 biennium. The plan shall include provisions to reduce the total number of individuals on the waiting list for the ~~Mental Retardation Intellectual Disability~~ Medicaid Waiver by 10 percent in the 2008-2010 biennium. The Governor shall submit the plan to the chairman of the Joint Commission on Health Care, and the chairmen of the House Appropriations and Senate Finance Committees by October 1, 2009.

The Department of Medical Assistance Services shall work with the Department of Planning and Budget to incorporate additional costs pursuant to this section in the estimate of Medicaid expenditures required pursuant to § 32.1-323.1.

§ 36-96.6. Certain restrictive covenants void; instruments containing such covenants.

A. Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, or handicap, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of ~~this~~ *the* Commonwealth.

B. Any person who is asked to accept a document affecting title to real or leasehold property may decline to accept the same if it includes such a covenant or reversionary interest until the covenant or reversionary interest has been removed from the document. Refusal to accept delivery of an instrument for this reason shall not be deemed a breach of a contract to purchase, lease, mortgage, or otherwise deal with such property.

C. No person shall solicit or accept compensation of any kind for the release or removal of any covenant or reversionary interest described in subsection A. Any person violating this subsection shall be liable to any person injured thereby in an amount equal to the greater of three times the compensation solicited or received, or \$500, plus reasonable attorneys' fees and costs incurred.

D. A family care home, foster home, or group home in which ~~physically handicapped, mentally ill, mentally retarded, or developmentally disabled persons~~ *individuals with physical handicaps, mental illness, intellectual disability, or developmental disability* reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family when construing any restrictive covenant which purports to restrict occupancy or ownership of real or leasehold property to members of a single family or to residential use or structure.

§ 37.2-100. Definitions.

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

"Abuse" means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the Department, excluding those operated by the Department of Corrections, that was performed or was failed to be performed

2150 knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological
 2151 harm, injury, or death to a person receiving care or treatment for mental illness, ~~mental retardation~~
 2152 *intellectual disability*, or substance abuse. Examples of abuse include acts such as:

- 2153 1. Rape, sexual assault, or other criminal sexual behavior;
- 2154 2. Assault or battery;
- 2155 3. Use of language that demeans, threatens, intimidates, or humiliates the person;
- 2156 4. Misuse or misappropriation of the person's assets, goods, or property;
- 2157 5. Use of excessive force when placing a person in physical or mechanical restraint;
- 2158 6. Use of physical or mechanical restraints on a person that is not in compliance with federal and
- 2159 state laws, regulations, and policies, professionally accepted standards of practice, or the person's
- 2160 individualized services plan; and
- 2161 7. Use of more restrictive or intensive services or denial of services to punish the person or that is
- 2162 not consistent with his individualized services plan.

2163 "Administrative policy community services board" or "administrative policy board" means the public
 2164 body organized in accordance with the provisions of Chapter 5 (§ 37.2-500 *et seq.*) that is appointed by
 2165 and accountable to the governing body of each city and county that established it to set policy for and
 2166 administer the provision of mental health, ~~mental retardation~~ *developmental*, and substance abuse
 2167 services. The "administrative policy community services board" or "administrative policy board" denotes
 2168 the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties
 2169 enumerated in subsection A of § 37.2-504 and § 37.2-505. Mental health, ~~mental retardation~~
 2170 *developmental*, and substance abuse services are provided through local government staff or through
 2171 contracts with other organizations and providers.

2172 "Behavioral health authority" or "authority" means a public body and a body corporate and politic
 2173 organized in accordance with the provisions of Chapter 6 (§ 37.2-600 *et seq.*) that is appointed by and
 2174 accountable to the governing body of the city or county that established it for the provision of mental
 2175 health, ~~mental retardation~~ *developmental*, and substance abuse services. "Behavioral health authority" or
 2176 "authority" also includes the organization that provides such services through its own staff or through
 2177 contracts with other organizations and providers.

2178 "Board" means the State Board of Behavioral Health and Developmental Services.

2179 "Commissioner" means the Commissioner of Behavioral Health and Developmental Services.

2180 "Community services board" means the public body established pursuant to § 37.2-501 that provides
 2181 mental health, ~~mental retardation~~ *developmental*, and substance abuse services within each city and
 2182 county that established it; the term "community services board" shall include administrative policy
 2183 community services boards, operating community services boards, and local government departments
 2184 with policy-advisory community services boards.

2185 "Consumer" means a current direct recipient of public or private mental health, mental retardation, or
 2186 substance abuse treatment or habilitation services.

2187 "Department" means the Department of Behavioral Health and Developmental Services.

2188 "Facility" means a state or licensed hospital, training center, psychiatric hospital, or other type of
 2189 residential or outpatient mental health or ~~mental retardation~~ *developmental services* facility. When
 2190 modified by the word "state," "facility" means a state hospital or training center operated by the
 2191 Department, including the buildings and land associated with it.

2192 "Family member" means an immediate family member of a consumer or the principal caregiver of a
 2193 consumer. A principal caregiver is a person who acts in the place of an immediate family member,
 2194 including other relatives and foster care providers, but does not have a proprietary interest in the care of
 2195 the consumer.

2196 "Hospital," when not modified by the words "state" or "licensed," means a state hospital or licensed
 2197 hospital that provides care and treatment for persons with mental illness.

2198 "Licensed hospital" means a hospital or institution, including a psychiatric unit of a general hospital,
 2199 that is licensed pursuant to the provisions of this title.

2200 "*Intellectual disability*" means a disability, originating before the age of 18 years, characterized
 2201 concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on
 2202 a standardized measure of intellectual functioning, administered in conformity with accepted professional
 2203 practice, that is at least two standard deviations below the mean and (ii) significant limitations in
 2204 adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

2205 "Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that
 2206 significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life
 2207 necessities and requires care and treatment for the health, safety, or recovery of the individual or for the
 2208 safety of others.

2209 "Mental retardation" means a disability, originating before the age of 18 years, characterized
 2210 concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a
 2211 standardized measure of intellectual functioning, administered in conformity with accepted professional

2212 practice, that is at least two standard deviations below the mean and (ii) significant limitations in
 2213 adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

2214 "Neglect" means failure by an individual or a program or facility operated, licensed, or funded by the
 2215 Department, excluding those operated by the Department of Corrections, responsible for providing
 2216 services to do so, including nourishment, treatment, care, goods, or services necessary to the health,
 2217 safety, or welfare of a person receiving care or treatment for mental illness, ~~mental retardation~~
 2218 *intellectual disability*, or substance abuse.

2219 "Operating community services board" or "operating board" means the public body organized in
 2220 accordance with the provisions of Chapter 5 (§ 37.2-500 *et seq.*) that is appointed by and accountable to
 2221 the governing body of each city and county that established it for the direct provision of mental health,
 2222 ~~mental retardation~~ *developmental*, and substance abuse services. The "operating community services
 2223 board" or "operating board" denotes the board, the members of which are appointed pursuant to
 2224 § 37.2-501 with the powers and duties enumerated in subsection A of § 37.2-504 and § 37.2-505.
 2225 "Operating community services board" or "operating board" also includes the organization that provides
 2226 such services, through its own staff or through contracts with other organizations and providers.

2227 "Performance contract" means the annual agreement negotiated and entered into by a community
 2228 services board or behavioral health authority with the Department through which it provides state and
 2229 federal funds appropriated for mental health, ~~mental retardation~~ *developmental*, and substance abuse
 2230 services to that community services board or behavioral health authority.

2231 "Policy-advisory community services board" or "policy-advisory board" means the public body
 2232 organized in accordance with the provisions of Chapter 5 that is appointed by and accountable to the
 2233 governing body of each city or county that established it to provide advice on policy matters to the local
 2234 government department that provides mental health, ~~mental retardation~~ *developmental*, and substance
 2235 abuse services pursuant to subsection A of § 37.2-504 and § 37.2-505. The "policy-advisory community
 2236 services board" or "policy-advisory board" denotes the board, the members of which are appointed
 2237 pursuant to § 37.2-501 with the powers and duties enumerated in subsection B of § 37.2-504.

2238 "Service area" means the city or county or combination of cities and counties or counties or cities
 2239 that is served by a community services board or behavioral health authority or the cities and counties
 2240 that are served by a state facility.

2241 "Special justice" means a person appointed by a chief judge of a judicial circuit for the purpose of
 2242 performing the duties of a judge pursuant to § 37.2-803.

2243 "State hospital" means a hospital, psychiatric institute, or other institution operated by the Department
 2244 that provides care and treatment for persons with mental illness.

2245 "Substance abuse" means the use of drugs, enumerated in the Virginia Drug Control Act
 2246 (§ 54.1-3400 *et seq.*), without a compelling medical reason or alcohol that (i) results in psychological or
 2247 physiological dependence or danger to self or others as a function of continued and compulsive use or
 2248 (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially
 2249 disordering behavior and (iii), because of such substance abuse, requires care and treatment for the
 2250 health of the individual. This care and treatment may include counseling, rehabilitation, or medical or
 2251 psychiatric care.

2252 "Training center" means a facility operated by the Department for the treatment, training, or
 2253 habilitation of persons with ~~mental retardation~~ *intellectual disability*.

2254 § 37.2-203. Powers and duties of Board.

2255 The Board shall have the following powers and duties:

2256 1. To develop and establish programmatic and fiscal policies governing the operation of state
 2257 hospitals, training centers, community services boards, and behavioral health authorities;

2258 2. To ensure the development of long-range programs and plans for mental health, ~~mental retardation~~
 2259 *developmental*, and substance abuse services provided by the Department, community services boards,
 2260 and behavioral health authorities;

2261 3. To review and comment on all budgets and requests for appropriations for the Department prior to
 2262 their submission to the Governor and on all applications for federal funds;

2263 4. To monitor the activities of the Department and its effectiveness in implementing the policies of
 2264 the Board;

2265 5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental
 2266 health, ~~mental retardation~~ *developmental*, and substance abuse services;

2267 6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws
 2268 of the Commonwealth administered by the Commissioner or the Department;

2269 7. To ensure the development of programs to educate citizens about and elicit public support for the
 2270 activities of the Department, community services boards, and behavioral health authorities;

2271 8. To ensure that the Department assumes the responsibility for providing for education and training
 2272 of school-age consumers in state facilities, pursuant to § 37.2-312; and

2273 9. To change the names of state facilities.

2274 Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the
2275 Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et
2276 seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to
2277 § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

2278 § 37.2-204. Appointments to state and local human rights committees.

2279 The Board shall appoint a state human rights committee that shall appoint local human rights
2280 committees to address alleged violations of consumers' human rights. One-third of the appointments
2281 made to the state or local human rights committees shall be current or former consumers or family
2282 members of current or former consumers, with at least two consumers who are receiving or who have
2283 received within five years of their initial appointment public or private mental health, ~~mental retardation~~
2284 *developmental*, or substance abuse treatment or habilitation services on each committee. In addition, at
2285 least one appointment to the state and each local human rights committee shall be a health care
2286 provider. Remaining appointments shall include lawyers and persons with interest, knowledge, or
2287 training in the mental health, ~~mental retardation~~ *developmental*, or substance abuse *services* field. No
2288 current employee of the Department, a community services board, or a behavioral health authority shall
2289 serve as a member of the state human rights committee. No current employee of the Department, a
2290 community services board, a behavioral health authority, or any facility, program, or organization
2291 licensed or funded by the Department or funded by a community services board or behavioral health
2292 authority shall serve as a member of any local human rights committee that serves an oversight function
2293 for the employing facility, program, or organization.

2294 § 37.2-303. Qualifications of Commissioner.

2295 The Commissioner shall be a person of proven executive and administrative ability and shall have
2296 had appropriate education and substantial experience in the fields of mental health, ~~mental retardation~~
2297 *developmental*, or substance abuse *services*.

2298 activities for compensation, the Commissioner shall devote his entire time to his duties.

2299 § 37.2-306. Research into causes of mental illness, intellectual disability, substance abuse, and related
2300 subjects.

2301 The Commissioner is hereby directed to promote research into the causes of mental illness, ~~mental~~
2302 ~~retardation~~ *intellectual disability*, and substance abuse throughout the Commonwealth. The Commissioner
2303 shall encourage the directors of the state facilities and their staffs in the investigation of all subjects
2304 relating to mental illness, ~~mental retardation~~ *intellectual disability*, and substance abuse. In these research
2305 programs, the Commissioner shall make use, insofar as practicable, of the services and facilities of
2306 medical schools and the hospitals allied with them.

2307 § 37.2-315. Comprehensive State Plan for Behavioral Health and Developmental Services.

2308 The Department, in consultation with community services boards, behavioral health authorities, state
2309 hospitals and training centers, consumers, consumers' families, advocacy organizations, and other
2310 interested parties, shall develop and update biennially a six-year Comprehensive State Plan for
2311 Behavioral Health and Developmental Services. The Comprehensive State Plan shall identify the needs
2312 of and the resource requirements for providing services and supports to persons with mental illness,
2313 ~~mental retardation~~ *intellectual disability*, or substance abuse across the Commonwealth and shall propose
2314 strategies to address these needs. The Comprehensive State Plan shall be used in the development of the
2315 Department's biennial budget submission to the Governor.

2316 § 37.2-318. Behavioral Health and Developmental Services Trust Fund established; purpose.

2317 There is hereby created in the state treasury a special nonreverting fund to be known as the
2318 Behavioral Health and Developmental Services Trust Fund to enhance and ensure for the coming years
2319 the quality of care and treatment provided to consumers of public mental health, ~~mental retardation~~
2320 *developmental*, and substance abuse services. The Fund shall be established on the books of the
2321 Comptroller. Notwithstanding the provisions of § 2.2-1156, the Fund shall consist of the net proceeds of
2322 the sale of vacant buildings and land held by the Department. The Fund shall also consist of such
2323 moneys as shall be appropriated by the General Assembly and any private donations. Interest earned on
2324 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
2325 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
2326 remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this article.
2327 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
2328 by the Comptroller upon written request signed by the Commissioner.

2329 § 37.2-319. Administration of Behavioral Health and Developmental Services Trust Fund.

2330 A. The Fund shall be administered by the Commissioner. Moneys in the Fund shall be used for
2331 *mental illness health*, ~~mental retardation~~ *developmental*, or substance abuse services and to facilitate
2332 transition of individuals with ~~mental retardation~~ *intellectual disability* from state training centers to
2333 community-based services. Notwithstanding any other provision of law, the net proceeds from the sale
2334 of any vacant buildings and land shall first be used to (i) deliver mental health, ~~mental retardation~~

developmental, and substance abuse services within the same service area where the sold buildings and land were located to ensure the same level of mental health, ~~mental retardation~~ *developmental*, and substance abuse services as before the sale and (ii) provide benefits pursuant to the Workforce Transition Act of 1995 (§ 2.2-3200 et seq.) to those persons who were employees of the Commonwealth and, as a result of the sale, are no longer employed by the Commonwealth or are otherwise negatively affected by the sale.

B. For each fiscal year starting with the Commonwealth's 2011-2012 fiscal year, any funds directed to be deposited into the Fund pursuant to the general appropriation act shall be appropriated for financing (i) a broad array of community-based services including but not limited to Intellectual Disability Home and Community Based ~~Waivers~~ *Waiver services* or (ii) appropriate community housing, for the purpose of transitioning individuals with ~~mental retardation~~ *intellectual disability* from state training centers to community-based care.

§ 37.2-403. Definitions.

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

"Brain injury" is any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor and stroke. Brain injury does not include hereditary, congenital or degenerative brain disorders, or injuries induced by birth trauma.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to persons with mental illness, ~~mental retardation~~ *intellectual disability*, or substance abuse, (ii) services to persons who receive day support, in-home support, or crisis stabilization services funded through the Individual and Families Developmental Disabilities Support Waiver, *or* (iii) ~~services to persons under the Brain Injury Waiver, or (iv)~~ residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to § 54.1-3501, 54.1-3601, or 54.1-3701.

"Service or services" means:

1. Planned individualized interventions intended to reduce or ameliorate mental illness, ~~mental retardation~~ *intellectual disability*, or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to individuals with mental illness, ~~mental retardation~~ *intellectual disability*, or substance abuse. Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment, and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house, and other residential services;

2. Day support, in-home support, and crisis stabilization services provided to individuals under the Individual and Families Developmental Disabilities Support Waiver; and

3. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided under the Brain Injury Waiver or in residential services for persons with brain injury.

§ 37.2-408. Regulation of services delivered in group homes and residential facilities for children.

A. The Department shall assist and cooperate with other state departments in fulfilling their respective licensing and certification responsibilities. The Board shall adopt regulations that shall allow the Department to so assist and cooperate with other state departments. The Board may adopt regulations to enhance cooperation and assistance among agencies licensing similar programs.

B. The Board's regulations shall establish the Department as the single licensing agency, with the exception of educational programs licensed by the Department of Education, for group homes or residential facilities providing mental health, ~~mental retardation~~ *developmental*, brain injury, or substance abuse services other than facilities operated or regulated by the Department of Juvenile Justice. Such regulations shall address the services required to be provided in group homes and residential facilities for children as it may deem appropriate to ensure the health and safety of the children. In addition, the Board's regulations shall include, but shall not be limited to (i) specifications for the structure and accommodations of such homes and facilities according to the needs of the children to be placed; (ii) rules concerning allowable activities, local government- and home- or facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. Pursuant to the procedures set forth in subsection D, the Commissioner may issue a summary

2396 order of suspension of the license of a group home or residential facility for children licensed pursuant
2397 to the Board's regulations under subsection A, in conjunction with any proceeding for revocation, denial,
2398 or other action, when conditions or practices exist in the home or facility that pose an immediate and
2399 substantial threat to the health, safety, and welfare of the children who are residents and the
2400 Commissioner believes the operation should be suspended during the pendency of such proceeding.

2401 D. The summary order of suspension shall take effect upon its issuance and shall be served on the
2402 licensee or its designee as soon as practicable thereafter by personal service and certified mail, return
2403 receipt requested, to the address of record of the licensee. The order shall state the time, date, and
2404 location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no
2405 later than three business days after the issuance of the summary order of suspension and shall be
2406 convened by the Commissioner or his designee.

2407 After such hearing, the Commissioner may issue a final order of summary suspension or may find
2408 that such summary suspension is not warranted by the facts and circumstances presented. A final order
2409 of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to
2410 the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before
2411 the court shall be whether the Department had reasonable grounds to require the licensee to cease
2412 operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent
2413 revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the
2414 appropriateness of the summary suspension.

2415 The willful and material failure to comply with the summary order of suspension or final order of
2416 summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the
2417 cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who
2418 are residents of a home or facility whose license has been summarily suspended pursuant to this section
2419 and in any other actions necessary to reduce the risk of further harm to children.

2420 E. In addition to the requirements set forth above, the Board's regulations shall require, as a
2421 condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally
2422 interviewed by Department personnel to determine the qualifications of the owner or operator before
2423 granting an initial license; (ii) provide evidence of having relevant prior experience before any initial
2424 license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff
2425 participation in training on appropriate siting of the residential facilities for children, good neighbor
2426 policies, and community relations; and (iv) be required to screen ~~residents~~ *children* prior to admission to
2427 exclude ~~individuals~~ *children* with behavioral issues, such as histories of violence, that cannot be
2428 managed in the relevant residential facility.

2429 F. In addition, the Department shall:

2430 1. Notify relevant local governments and placing and funding agencies, including the Office of
2431 Comprehensive Services, of multiple health and safety or human rights violations in residential facilities
2432 for which the Department serves as lead licensure agency when such violations result in the lowering of
2433 the licensure status of the facility to provisional;

2434 2. Post on the Department's website information concerning the application for initial licensure of or
2435 renewal, denial, or provisional licensure of any residential facility for children located in the locality;

2436 3. Require all licensees to self-report lawsuits against or settlements with residential facility operators
2437 relating to the health and safety or human rights of residents and any criminal charges that may have
2438 been made relating to the health and safety or human rights of residents;

2439 4. Require proof of contractual agreements or staff expertise to provide educational services,
2440 counseling services, psychological services, medical services, or any other services needed to serve the
2441 residents in accordance with the facility's operational plan;

2442 5. Modify the term of the license at any time during the term of the license based on a change in
2443 compliance; and

2444 6. Disseminate to local governments, or post on the Department's website, an accurate (updated
2445 weekly or monthly as necessary) list of licensed and operating group homes and other residential
2446 facilities for children by locality with information on services and identification of the lead licensure
2447 agency.

2448 § 37.2-409. Intermediate care facilities for individuals with intellectual disability.

2449 The Board may adopt regulations specifying the maximum number of consumers to be served by any
2450 intermediate care facility for ~~the mentally retarded individuals with intellectual disability (ICF/MR)~~.

2451 § 37.2-416. Background checks required.

2452 A. As used in this section, the term "direct consumer care position" means any position that includes
2453 responsibility for (i) treatment, case management, health, safety, development, or well-being of a
2454 consumer or (ii) immediately supervising a person in a position with this responsibility.

2455 As used in this section, "hire for compensated employment" does not include (i) a promotion from
2456 one adult substance abuse or adult mental health treatment position to another such position within the
2457 same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or

adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. As used in this section, "hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or ~~mental retardation~~ *developmental services* direct consumer care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or ~~mental retardation~~ *developmental services* direct consumer care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

B. Every provider licensed pursuant to this article shall require any applicant who accepts employment in any direct consumer care position to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall hire for compensated employment persons who have been convicted of any offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment facilities a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; or (iii) assault and battery, as set out in subsection A of § 18.2-57; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or an equivalent offense in another state, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to consumers based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to consumers based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to consumers based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed the offense

2519 while employed in a direct consumer care position.

2520 G. Providers licensed pursuant to this article also shall require, as a condition of employment for all
2521 applicants, written consent and personal information necessary to obtain a search of the registry of
2522 founded complaints of child abuse and neglect that is maintained by the Department of Social Services
2523 pursuant to § 63.2-1515.

2524 H. The cost of obtaining the criminal history record and search of the child abuse and neglect
2525 registry record shall be borne by the applicant, unless the provider licensed pursuant to this article
2526 decides to pay the cost.

2527 I. A person who complies in good faith with the provisions of this section shall not be liable for any
2528 civil damages for any act or omission in the performance of duties under this section unless the act or
2529 omission was the result of gross negligence or willful misconduct.

2530 § 37.2-500. Purpose; community services board; services to be provided.

2531 The Department, for the purposes of establishing, maintaining, and promoting the development of
2532 mental health, ~~mental retardation developmental~~, and substance abuse services in the Commonwealth,
2533 may provide funds to assist any city or county or any combinations of cities or counties or cities and
2534 counties in the provision of these services. Every county or city shall establish a community services
2535 board by itself or in any combination with other cities and counties, unless it establishes a behavioral
2536 health authority pursuant to Chapter 6 (§ 37.2-600 et seq.) of this title. Every county or city or any
2537 combination of cities and counties that has established a community services board, in consultation with
2538 that board, shall designate it as an operating community services board, an administrative policy
2539 community services board or a local government department with a policy-advisory community services
2540 board. The governing body of each city or county that established the community services board may
2541 change this designation at any time by ordinance. In the case of a community services board established
2542 by more than one city or county, the decision to change this designation shall be the unanimous decision
2543 of all governing bodies.

2544 The core of services provided by community services boards within the cities and counties that they
2545 serve shall include emergency services and, subject to the availability of funds appropriated for them,
2546 case management services. The core of services may include a comprehensive system of inpatient,
2547 outpatient, day support, residential, prevention, early intervention, and other appropriate mental health,
2548 ~~mental retardation developmental~~, and substance abuse services necessary to provide individualized
2549 services and supports to persons with mental ~~illnesses~~ ~~illness~~, ~~mental retardation intellectual disability~~, or
2550 substance abuse. Community services boards may establish crisis stabilization units that provide
2551 residential crisis stabilization services.

2552 In order to provide comprehensive mental health, ~~mental retardation developmental~~, and substance
2553 abuse services within a continuum of care, the community services board shall function as the single
2554 point of entry into publicly funded mental health, ~~mental retardation developmental~~, and substance abuse
2555 services.

2556 § 37.2-504. Community services boards; local government departments; powers and duties.

2557 A. Every operating and administrative policy community services board and local government
2558 department with a policy-advisory board shall have the following powers and duties:

2559 1. Review and evaluate public and private community mental health, ~~mental retardation~~
2560 ~~developmental~~, and substance abuse services and facilities that receive funds from it and advise the
2561 governing body of each city or county that established it as to its findings.

2562 2. Pursuant to § 37.2-508, submit to the governing body of each city or county that established it an
2563 annual performance contract for community mental health, ~~mental retardation developmental~~, and
2564 substance abuse services for its approval prior to submission of the contract to the Department.

2565 3. Within amounts appropriated for this purpose, provide services authorized under the performance
2566 contract.

2567 4. In accordance with its approved performance contract, enter into contracts with other providers for
2568 the delivery of services or operation of facilities.

2569 5. In the case of operating and administrative policy boards, make policies or regulations concerning
2570 the delivery of services and operation of facilities under its direction or supervision, subject to applicable
2571 policies and regulations adopted by the Board.

2572 6. In the case of an operating board, appoint an executive director of community mental health,
2573 ~~mental retardation developmental~~, and substance abuse services, who meets the minimum qualifications
2574 established by the Department, and prescribe his duties. The compensation of the executive director shall
2575 be fixed by the operating board within the amounts made available by appropriation for this purpose.
2576 The executive director shall serve at the pleasure of the operating board and be employed under an
2577 annually renewable contract that contains performance objectives and evaluation criteria. For an
2578 operating board, the Department shall approve the selection of the executive director for adherence to
2579 minimum qualifications established by the Department and the salary range of the executive director. In
2580 the case of an administrative policy board, the board shall participate with local government in the

appointment and annual performance evaluation of an executive director of community mental health, ~~mental retardation developmental~~, and substance abuse services, who meets the minimum qualifications established by the Department, and prescribe his duties. The compensation of the executive director shall be fixed by local government in consultation with the administrative policy board within the amounts made available by appropriation for this purpose. In the case of a local government department with a policy-advisory board, the director of the local government department shall serve as the executive director. The policy-advisory board shall participate in the selection and the annual performance evaluation of the executive director, who meets the minimum qualifications established by the Department. The compensation of the executive director shall be fixed by local government in consultation with the policy-advisory board within the amounts made available by appropriation for this purpose.

7. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the board and establish procedures for the collection of those fees. All fees collected shall be included in the performance contract submitted to the local governing body or bodies pursuant to subdivision 2 of this section and § 37.2-508 and shall be used only for community mental health, ~~mental retardation developmental~~, and substance abuse services purposes. Every board shall institute a reimbursement system to maximize the collection of fees from persons receiving services under its jurisdiction or supervision, consistent with the provisions of § 37.2-511, and from responsible third party payors. Boards shall not attempt to bill or collect fees for time spent participating in commitment hearings for involuntary admissions pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8.

8. Accept or refuse gifts, donations, bequests, or grants of money or property from any source and utilize them as authorized by the governing body of each city or county that established it.

9. Seek and accept funds through federal grants. In accepting federal grants, the board shall not bind the governing body of any city or county that established it to any expenditures or conditions of acceptance without the prior approval of the governing body.

10. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in accordance with such regulations as may be established by the governing body of each city or county that established it.

11. Apply for and accept loans as authorized by the governing body of each city or county that established it.

12. Develop joint written agreements, consistent with policies adopted by the Board, with local school divisions; health departments; boards of social services; housing agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of Rehabilitative Services offices. The agreements shall specify the services to be provided to consumers. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

13. Develop and submit to the Department the necessary information for the preparation of the Comprehensive State Plan for ~~mental health, mental retardation, and substance abuse services~~ *Behavioral Health and Developmental Services* pursuant to § 37.2-315.

14. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and services planning, delivery, and evaluation.

15. Institute, singly or in combination with other community services boards or behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the community services board.

16. Notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, release data and information about individual consumers to the Department so long as the Department implements procedures to protect the confidentiality of that data and information.

17. In the case of administrative policy boards and local government departments with policy-advisory boards, carry out other duties and responsibilities as assigned by the governing body of each city or county that established it.

18. In the case of operating boards, have authority, notwithstanding any provision of law to the contrary, to receive state and federal funds directly from the Department and act as its own fiscal agent, when authorized to do so by the governing body of each city or county that established it.

By local agreement between the administrative policy board and the governing body of the city or county that established it, additional responsibilities may be carried out by the local government, including personnel or financial management. In the case of an administrative policy board established by more than one city or county, the cities and counties shall designate which local government shall assume these responsibilities.

B. Every policy-advisory community services board, with staff support provided by the director of

2642 the local government department, shall have the following powers and duties:

2643 1. Advise the local government regarding policies or regulations for the delivery of services and
2644 operation of facilities by the local government department, subject to applicable policies and regulations
2645 adopted by the Board.

2646 2. Review and evaluate the operations of the local government department and advise the local
2647 governing body of each city or county that established it as to its findings.

2648 3. Review the community mental health, ~~mental retardation~~ *developmental*, and substance abuse
2649 services provided by the local government department and advise the local governing body of each city
2650 or county that established it as to its findings.

2651 4. Review and comment on the annual performance contract, performance reports, and
2652 Comprehensive State Plan information developed by the local government department. The board's
2653 comments shall be attached to the performance contract, performance reports, and Comprehensive State
2654 Plan information prior to their submission to the local governing body of each city or county that
2655 established it and to the Department.

2656 5. Advise the local government as to the necessary and appropriate actions to maximize the
2657 involvement and participation of consumers and family members of consumers in policy formulation and
2658 services planning, delivery, and evaluation.

2659 6. Participate in the selection and the annual performance evaluation of the local government
2660 department director employed by the city or county.

2661 7. Carry out other duties and responsibilities as assigned by the governing body of each city or
2662 county that established it.

2663 § 37.2-505. Coordination of services for preadmission screening and discharge planning.

2664 A. The community services board shall fulfill the following responsibilities:

2665 1. Be responsible for coordinating the community services necessary to accomplish effective
2666 preadmission screening and discharge planning for persons referred to the community services board.
2667 When preadmission screening reports are required by the court on an emergency basis pursuant to
2668 Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development
2669 of the report for the court. To accomplish this coordination, the community services board shall establish
2670 a structure and procedures involving staff from the community services board and, as appropriate,
2671 representatives from (i) the state hospital or training center serving the board's service area, (ii) the local
2672 department of social services, (iii) the health department, (iv) the Department of Rehabilitative Services
2673 office in the board's service area, (v) the local school division, and (vi) other public and private human
2674 services agencies, including licensed hospitals.

2675 2. Provide preadmission screening services prior to the admission for treatment pursuant to
2676 § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental
2677 health services while in a city or county served by the community services board.

2678 3. Provide, in consultation with the appropriate state hospital or training center, discharge planning
2679 for any person who, prior to admission, resided in a city or county served by the community services
2680 board or who chooses to reside after discharge in a city or county served by the board and who is to be
2681 released from a state hospital or training center pursuant to § 37.2-837. The discharge plan shall be
2682 completed prior to the person's discharge. The plan shall be prepared with the involvement and
2683 participation of the consumer or his representative and must reflect the consumer's preferences to the
2684 greatest extent possible. The plan shall include the mental health, ~~mental retardation~~ *developmental*,
2685 substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and
2686 other services that the consumer will need upon discharge into the community and identify the public or
2687 private agencies that have agreed to provide these services.

2688 No person shall be discharged from a state hospital or training center without completion by the
2689 community services board of the discharge plan described in this subdivision. If state hospital or training
2690 center staff identify a consumer as ready for discharge and the community services board that is
2691 responsible for the person's care disagrees, the community services board shall document in the
2692 treatment plan within 30 days of the person's identification any reasons for not accepting the person for
2693 discharge. If the state hospital or training center disagrees with the community services board and the
2694 board refuses to develop a discharge plan to accept the person back into the community, the state
2695 hospital or training center or the community services board shall ask the Commissioner to review the
2696 state hospital's or training center's determination that the person is ready for discharge in accordance
2697 with procedures established by the Department in collaboration with state hospitals, training centers, and
2698 community services boards. If the Commissioner determines that the person is ready for discharge, a
2699 discharge plan shall be developed by the Department to ensure the availability of adequate services for
2700 the consumer and the protection of the community. The Commissioner also shall verify that sufficient
2701 state-controlled funds have been allocated to the community services board through the performance
2702 contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a
2703 private provider, another community services board, or a behavioral health authority to deliver the

services specified in the discharge plan and withhold allocated funds applicable to that consumer's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

§ 37.2-506. Background checks required.

A. As used in this section, the term "direct consumer care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of a consumer or (ii) immediately supervising a person in a position with this responsibility.

As used in this section, "hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. As used in this section, "hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or ~~mental retardation~~ *developmental services* direct consumer care position within the same community services board or (b) new employment in any mental health or ~~mental retardation~~ *developmental services* direct consumer care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

B. Every community services board shall require any applicant who accepts employment in any direct consumer care position with the community services board to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment persons who have been convicted of any offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; (iii) assault and battery, as set out in subsection A of § 18.2-57; or (iv) assault and battery against a family or household member, as set out in subsection A of § 18.2-57.2; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or an equivalent offense in another state, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to consumers based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to

2765 the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk
2766 to consumers based on his criminal history background and his substance abuse history.

2767 E. The community services board and a screening contractor designated by the Department shall
2768 screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants
2769 have been rehabilitated successfully and are not a risk to consumers based on their criminal history
2770 backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the
2771 applicant shall have completed all prison or jail terms, shall not be under probation or parole
2772 supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court
2773 costs for any prior convictions, and shall have been free of parole or probation for at least five years for
2774 all convictions. In addition to any supplementary information the community services board or screening
2775 contractor may require or the applicant may wish to present, the applicant shall provide to the screening
2776 contractor a statement from his most recent probation or parole officer, if any, outlining his period of
2777 supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony
2778 conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the
2779 cost.

2780 F. Notwithstanding the provisions of subsection B, a community services board may hire for
2781 compensated employment persons who have been convicted of not more than one misdemeanor offense
2782 under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person
2783 committed the offense while employed in a direct consumer care position.

2784 G. Community services boards also shall require, as a condition of employment for all applicants,
2785 written consent and personal information necessary to obtain a search of the registry of founded
2786 complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant
2787 to § 63.2-1515.

2788 H. The cost of obtaining the criminal history record and search of the child abuse and neglect
2789 registry record shall be borne by the applicant, unless the community services board decides to pay the
2790 cost.

2791 I. A person who complies in good faith with the provisions of this section shall not be liable for any
2792 civil damages for any act or omission in the performance of duties under this section unless the act or
2793 omission was the result of gross negligence or willful misconduct.

2794 § 37.2-508. Performance contract for mental health, developmental, and substance abuse services.

2795 A. The Department shall develop and initiate negotiation of the performance contracts through which
2796 it provides funds to community services boards to accomplish the purposes set forth in this chapter. In
2797 the case of operating boards, the Department may, notwithstanding any provision of law to the contrary,
2798 disburse state and federal funds appropriated to it for mental health, ~~mental retardation~~ *developmental*, or
2799 substance abuse services directly to the operating board, when that operating board is authorized by the
2800 governing body of each city or county that established it to receive such funds. Six months prior to the
2801 beginning of each fiscal year, the Department shall make available to the public the standard
2802 performance contract form that it intends to use as the performance contract for that fiscal year and
2803 solicit public comments for a period of 60 days.

2804 B. Any community services board may apply for the assistance provided in this chapter by
2805 submitting annually to the Department its proposed performance contract for the next fiscal year together
2806 with (i) the approval of its board of directors for operating and administrative policy boards or the
2807 comments of the local government department's policy-advisory board and (ii) the approval of the
2808 contract by formal vote of the governing body of each city or county that established it. The community
2809 services board shall make its proposed performance contract available for public review and solicit
2810 public comments for a period of 30 days prior to submitting its proposed contract for the approval of its
2811 board of directors for operating and administrative policy boards or the comments of the local
2812 government department's policy-advisory board. To avoid disruptions in service continuity and allow
2813 sufficient time to complete public review and comment about the contract and negotiation and approval
2814 of the contract, the Department may provide up to six semi-monthly payments of state-controlled funds
2815 to the community services board. If the governing body of each city or county does not approve the
2816 proposed performance contract by September 30 of each year, the performance contract shall be deemed
2817 approved.

2818 C. The performance contract shall (i) delineate the responsibilities of the Department and the
2819 community services board; (ii) specify conditions that must be met for the receipt of state-controlled
2820 funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) contain
2821 specific consumer outcome, provider performance, consumer satisfaction, and consumer and family
2822 member participation and involvement measures; (v) contain mechanisms that have been identified or
2823 developed jointly by the Department and community services board and that will be employed
2824 collaboratively by the community services board and the state hospital to manage the utilization of state
2825 hospital beds; (vi) establish an enforcement mechanism, should a community services board fail to be in
2826 substantial compliance with its performance contract, including notice and appeal processes and

provisions for remediation, withholding or reducing funds, methods of repayment of funds, and the Department's exercise of the provisions of subsection E; and (vii) include reporting requirements and revenue, cost, service, and consumer information displayed in a consistent, comparable format determined by the Department.

The Department may provide for performance monitoring in order to determine whether the community services boards are in substantial compliance with their performance contracts.

D. No community services board shall be eligible to receive state-controlled funds for mental health, ~~mental retardation~~ *developmental*, or substance abuse services after September 30 of each year unless (i) its performance contract has been approved by the governing body of each city or county that established it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual consumer data and information, notwithstanding the provisions of § 37.2-400 or any regulations adopted thereunder, to the Department in the format prescribed by the Department; and (iii) it uses standardized cost accounting and financial management practices approved by the Department.

E. If, after unsuccessful use of a remediation process described in the performance contract, a community services board remains in substantial noncompliance with its performance contract with the Department, the Department may, after affording the community services board an adequate opportunity to use the appeal process described in the performance contract, terminate all or a portion of the contract. Using the state-controlled resources associated with that contract, the Department, after consulting with the governing body of each city or county that established the board, may negotiate a performance contract with another board, a behavioral health authority, or a private nonprofit or for-profit organization or organizations to obtain services that were the subject of the terminated performance contract.

§ 37.2-509. Mental health, developmental, and substance abuse services; allocation of funds by Department; reduction of funds.

A. At the beginning of each fiscal year, the Department shall allocate available state-controlled funds to community services boards for disbursement in accordance with procedures established by the Department and performance contracts approved by the Department. Allocations of state-controlled funds to each community services board shall be determined by the Department, after careful consideration of all of the following factors:

1. The total amounts of state-controlled funds appropriated for this purpose;
2. Previous allocations of state-controlled funds to each community services board;
3. Requirements or conditions attached to appropriations of state-controlled funds by the General Assembly, the Governor, or federal granting authorities;
4. Community services board input about the uses of and methodologies for allocating existing and new state-controlled funds; and
5. Other relevant and appropriate considerations.

Allocations to any community services board for operating expenses, including salaries and other costs, or the construction of facilities shall not exceed 90 percent of the total amount of state and local matching funds provided for these expenses or such construction, unless a waiver is granted by the Department pursuant to policy adopted by the Board.

B. The Department shall notify the governing body of each city or county that established the community services board before implementing any reduction of state-controlled funds. Before any city or county reduces local government matching funds, it shall notify its community services board and the Department.

C. All fees collected by the community services board shall be included in its performance contract and retained and used by the board for mental health, ~~mental retardation~~ *developmental*, and substance abuse *services* purposes.

§ 37.2-600. Definitions.

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

"Behavioral health" means the full range of mental health, ~~mental retardation~~ *developmental*, and substance abuse services and treatment modalities.

"Behavioral health authority board of directors" means the public body organized in accordance with provisions of this chapter that is appointed by and accountable to the governing body of the city or county that established it.

"Behavioral health project" means any facility suitable for providing adequate care for concentrated centers of population and includes structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways, and other necessary or desirable facilities.

"Member" means a person appointed by the governing body of a city or county to the behavioral health authority board of directors.

§ 37.2-601. Behavioral health authorities; purpose.

2888 The Department, for the purposes of establishing, maintaining, and promoting the development of
2889 behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in
2890 the provision of these services.

2891 The governing body of the Cities of Virginia Beach or Richmond or the County of Chesterfield may
2892 establish a behavioral health authority and shall declare its intention to do so by resolution.

2893 The behavioral health services provided by behavioral health authorities within the cities or counties
2894 they serve shall include emergency services and, subject to the availability of funds appropriated for
2895 them, case management services. The behavioral health services may include a comprehensive system of
2896 inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental
2897 health, ~~mental retardation developmental~~, and substance abuse services necessary to provide
2898 individualized services and supports to persons with mental ~~illnesses illness~~, ~~mental retardation~~
2899 ~~intellectual disability~~, or substance abuse. Behavioral health authorities may establish crisis stabilization
2900 units that provide residential crisis stabilization services.

2901 In order to provide comprehensive mental health, ~~mental retardation developmental~~, and substance
2902 abuse services within a continuum of care, the behavioral health authority shall function as the single
2903 point of entry into publicly funded mental health, ~~mental retardation developmental~~, and substance abuse
2904 services.

2905 § 37.2-605. Behavioral health authorities; powers and duties.

2906 Every authority shall be deemed to be a public instrumentality, exercising public and essential
2907 governmental functions to provide for the public mental health, welfare, convenience, and prosperity of
2908 the residents and such other persons who might be served by the authority and to provide behavioral
2909 health services to those residents and persons. An authority shall have the following powers and duties:

2910 1. Review and evaluate public and private community mental health, ~~mental retardation~~
2911 ~~developmental~~, and substance abuse services and facilities that receive funds from the authority and
2912 advise the governing body of the city or county that established it as to its findings.

2913 2. Pursuant to § 37.2-608, submit to the governing body of the city or county that established the
2914 authority an annual performance contract for community mental health, ~~mental retardation~~
2915 ~~developmental~~, and substance abuse services for its approval prior to submission of the contract to the
2916 Department.

2917 3. Within amounts appropriated for this purpose, provide services authorized under the performance
2918 contract.

2919 4. In accordance with its approved performance contract, enter into contracts with other providers for
2920 the delivery of services or operation of facilities.

2921 5. Make and enter into all other contracts or agreements as the authority may determine that are
2922 necessary or incidental to the performance of its duties and to the execution of powers granted by this
2923 chapter, including contracts with any federal agency, any subdivision or instrumentality of the
2924 Commonwealth, behavioral health providers, insurers, and managed care or health care networks on such
2925 terms and conditions as the authority may approve.

2926 6. Make policies or regulations concerning the delivery of services and operation of facilities under
2927 its direction or supervision, subject to applicable policies and regulations adopted by the Board.

2928 7. Appoint a chief executive officer of the behavioral health authority, who meets the minimum
2929 qualifications established by the Department, and prescribe his duties. The compensation of the chief
2930 executive officer shall be fixed by the authority within the amounts made available by appropriation for
2931 this purpose. The chief executive officer shall serve at the pleasure of the authority's board of directors
2932 and be employed under an annually renewable contract that contains performance objectives and
2933 evaluation criteria. The Department shall approve the selection of the chief executive officer for
2934 adherence to minimum qualifications established by the Department and the salary range of the chief
2935 executive officer.

2936 8. Authorize the chief executive officer to maintain a complement of professional staff to operate the
2937 behavioral health authority's service delivery system.

2938 9. Prescribe a reasonable schedule of fees for services provided by personnel or facilities under the
2939 jurisdiction or supervision of the authority and establish procedures for the collection of those fees. All
2940 fees collected shall be included in the performance contract submitted to the local governing body
2941 pursuant to subdivision 2 of this section and § 37.2-608 and shall be used only for community mental
2942 health, ~~mental retardation developmental~~, and substance abuse ~~services~~ purposes. Every authority shall
2943 institute a reimbursement system to maximize the collection of fees from persons receiving services
2944 under the jurisdiction or supervision of the authority, consistent with the provisions of § 37.2-612, and
2945 from responsible third party payors. Authorities shall not attempt to bill or collect fees for time spent
2946 participating in commitment hearings for involuntary admissions pursuant to Article 5 (§ 37.2-814 et
2947 seq.) of Chapter 8.

2948 10. Accept or refuse gifts, donations, bequests, or grants of money or property or other assistance
2949 from the federal government, the Commonwealth, any municipality thereof, or any other sources, public

or private; utilize them to carry out any of its purposes; and enter into any agreement or contract regarding or relating to the acceptance, use, or repayment of any such grant or assistance.

11. Seek and accept funds through federal grants. In accepting federal grants, the authority shall not bind the governing body of the city or county that established it to any expenditures or conditions of acceptance without the prior approval of that governing body.

12. Notwithstanding any provision of law to the contrary, disburse funds appropriated to it in accordance with applicable regulations.

13. Apply for and accept loans in accordance with regulations established by the board of directors.

14. Develop joint written agreements, consistent with policies adopted by the Board, with local school divisions; health departments; local boards of social services; housing agencies, where they exist; courts; sheriffs; area agencies on aging; and regional Department of Rehabilitative Services offices. The agreements shall specify the services to be provided to consumers. All participating agencies shall develop and implement the agreements and shall review the agreements annually.

15. Develop and submit to the Department the necessary information for the preparation of the Comprehensive State Plan for Behavioral Health and Developmental Services pursuant to § 37.2-315.

16. Take all necessary and appropriate actions to maximize the involvement and participation of consumers and family members of consumers in policy formulation and service planning, delivery, and evaluation.

17. Institute, singly or in combination with community services boards or other behavioral health authorities, a dispute resolution mechanism that is approved by the Department and enables consumers and family members of consumers to resolve concerns, issues, or disagreements about services without adversely affecting their access to or receipt of appropriate types and amounts of current or future services from the authority.

18. Notwithstanding the provisions of § 37.2-400 and regulations adopted thereunder, release data and information about individual consumers to the Department, so long as the Department implements procedures to protect the confidentiality of that data and information. Every authority shall submit data on children and youth in the same manner as community services boards, as set forth in § 37.2-507.

19. Fulfill all other duties and be subject to applicable provisions specified in the Code of Virginia pertaining to community services boards.

20. Make loans and provide other assistance to corporations, partnerships, associations, joint ventures, or other entities in carrying out any activities authorized by this chapter.

21. Transact its business, locate its offices and control, directly or through stock or nonstock corporations or other entities, facilities that will assist the authority in carrying out the purposes and intent of this chapter, including without limitations the power to own or operate, directly or indirectly, behavioral health facilities in its service area.

22. Acquire property, real or personal, by purchase, gift, or devise on such terms and conditions and in such manner as it may deem proper and such rights, easements, or estates therein as may be necessary for its purposes and sell, lease, and dispose of the same or any portion thereof or interest therein, whenever it shall become expedient to do so.

23. Participate in joint ventures with individuals, corporations, partnerships, associations, or other entities for providing behavioral health care or related services or other activities that the authority may undertake to the extent that such undertakings assist the authority in carrying out the purposes and intent of this chapter.

24. Conduct or engage in any lawful business, activity, effort, or project that is necessary or convenient for the purposes of the authority or for the exercise of any of its powers.

25. As a public instrumentality, establish and operate its administrative management infrastructure in whole or in part independent of the local governing body; however, nothing in the chapter precludes behavioral health authorities from acquiring support services through existing governmental entities.

26. Carry out capital improvements and bonding through existing economic or industrial development authorities.

27. Establish retirement, group life insurance, and group accident and sickness insurance plans or systems for its employees in the same manner as cities, counties, and towns are permitted to do under § 51.1-801.

28. Provide an annual report to the Department of the authority's activities.

29. Ensure a continuation of all consumer services during any transition period.

§ 37.2-608. Performance contract for mental health, developmental, and substance abuse services.

A. The Department shall develop and initiate negotiation of the performance contracts through which it provides funds to behavioral health authorities to accomplish the purposes set forth in this chapter.

The Department may, notwithstanding any provision of law to the contrary, disburse state and federal funds appropriated to it for mental health, ~~mental retardation~~ *developmental*, and substance abuse services directly to the behavioral health authority. Six months prior to the beginning of each fiscal year,

3011 the Department shall make available to the public the standard performance contract form that it intends
3012 to use as the performance contract for that fiscal year and solicit public comments for a period of 60
3013 days.

3014 B. Any behavioral health authority may apply for the assistance provided in this chapter by
3015 submitting annually to the Department its proposed performance contract for the next fiscal year together
3016 with the approval of its board of directors and the approval by formal vote of the governing body of the
3017 city or county that established it. The behavioral health authority shall make its proposed performance
3018 contract available for public review and solicit public comments for a period of 30 days prior to
3019 submitting its proposed contract for the approval of its board of directors. To avoid disruptions in
3020 service continuity and allow sufficient time to complete public review and comment about the contract
3021 and negotiation and approval of the contract, the Department may provide up to six semi-monthly
3022 payments of state-controlled funds to the authority. If the governing body of the city or county does not
3023 approve the proposed performance contract by September 30 of each year, the performance contract
3024 shall be deemed approved.

3025 C. The performance contract shall (i) delineate the responsibilities of the Department and the
3026 behavioral health authority; (ii) specify conditions that must be met for the receipt of state-controlled
3027 funds; (iii) identify the groups of consumers to be served with state-controlled funds; (iv) contain
3028 specific consumer, provider performance, consumer satisfaction, and consumer and family member
3029 participation and involvement measures; (v) contain mechanisms that have been identified or developed
3030 jointly by the Department and the behavioral health authority and that will be employed collaboratively
3031 by the behavioral health authority and the state hospital to manage the utilization of state hospital beds;
3032 (vi) establish an enforcement mechanism, should the behavioral health authority fail to be in substantial
3033 compliance with its performance contract, including notice and appeal processes and provisions for
3034 remediation, withholding or reducing funds, methods of repayment of funds, and the Department's
3035 exercise of the provisions of subsection E; and (vii) include reporting requirements and revenue, cost,
3036 service, and consumer information displayed in a consistent, comparable format determined by the
3037 Department.

3038 The Department may provide for performance monitoring to determine whether behavioral health
3039 authorities are in substantial compliance with their performance contracts.

3040 D. No behavioral health authority shall be eligible to receive state-controlled funds for mental health,
3041 ~~mental retardation~~ *developmental*, or substance abuse services after September 30 of each year unless (i)
3042 its performance contract has been approved by the governing body of the city or county that established
3043 it and by the Department; (ii) it provides service, cost, revenue, and aggregate and individual consumer
3044 data and information, notwithstanding § 37.2-400 or any regulations adopted thereunder, to the
3045 Department in the format prescribed by the Department; and (iii), it uses standardized cost accounting
3046 and financial management practices approved by the Department.

3047 E. If, after unsuccessful use of a remediation process described in the performance contract, a
3048 behavioral health authority remains in substantial noncompliance with its performance contract with the
3049 Department, the Department may, after affording the authority an adequate opportunity to use the appeal
3050 process described in the performance contract, terminate all or a portion of the contract. Using the
3051 state-controlled resources associated with that contract, the Department, after consulting with the
3052 governing body of the city or county that established the behavioral health authority, may negotiate a
3053 performance contract with a community services board, another behavioral health authority, or a private
3054 nonprofit or for-profit organization or organizations to obtain services that were the subject of the
3055 terminated performance contract.

3056 § 37.2-802. Interpreters in admission or certification proceedings.

3057 A. In any proceeding pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820 in which a person who
3058 is deaf is alleged to have ~~mental retardation~~ *intellectual disability* or mental illness, an interpreter for the
3059 person shall be appointed by the district court judge or special justice before whom the proceeding is
3060 pending from a list of qualified interpreters provided by the Department for the Deaf and
3061 Hard-of-Hearing. The interpreter shall be compensated as provided for in § 37.2-804.

3062 B. In any proceeding pursuant to § 37.2-806 or §§ 37.2-809 through 37.2-820 in which a
3063 non-English-speaking person is alleged to have ~~mental retardation~~ *intellectual disability* or mental illness
3064 or is a witness in such proceeding, an interpreter for the person shall be appointed by the district court
3065 judge or special justice, or in the case of §§ 37.2-809 through 37.2-813 a magistrate, before whom the
3066 proceeding is pending. Failure to appoint an interpreter when an interpreter is not reasonably available
3067 or when the person's level of English fluency cannot be determined shall not be a basis to dismiss the
3068 petition or void the order entered at the proceeding. The compensation for the interpreter shall be fixed
3069 by the court in accordance with the guidelines set by the Judicial Council of Virginia and shall be paid
3070 out of the state treasury.

3071 § 37.2-806. Judicial certification of eligibility for admission of persons with intellectual disability.

3072 A. Whenever a person alleged to have ~~mental retardation~~ *intellectual disability* is not capable of

requesting admission to a training center pursuant to § 37.2-805, a parent or guardian of the person or another responsible person may initiate a proceeding to certify the person's eligibility for admission pursuant to this section.

B. Prior to initiating the proceeding, the parent or guardian or other responsible person seeking the person's admission shall first obtain (i) a preadmission screening report that recommends admission to a training center from the community services board or behavioral health authority that serves the city or county where the person who is alleged to have ~~mental retardation~~ *intellectual disability* resides and (ii) the approval of the training center to which it is proposed that the person be admitted. The Board shall adopt regulations establishing the procedure and standards for the issuance of such approval. These regulations may include provision for the observation and evaluation of the person in a training center for a period not to exceed 48 hours. No person alleged to have ~~mental retardation~~ *intellectual disability* who is the subject of a proceeding under this section shall be detained on that account pending the hearing except for observation and evaluation pursuant to the provisions of this subsection.

C. Upon the filing of a petition in any city or county alleging that the person has ~~mental retardation~~ *intellectual disability*, is in need of training, ~~treatment~~, or habilitation, and has been approved for admission pursuant to subsection B of this section, a proceeding to certify the person's eligibility for admission to the training center may be commenced. The petition shall be filed with any district court or special justice. A copy of the petition shall be personally served on the person named in the petition, his attorney, and his guardian or conservator. Prior to any hearing under this section, the judge or special justice shall appoint an attorney to represent the person. However, the person shall not be precluded from employing counsel of his choosing and at his expense.

D. The person who is the subject of the hearing shall be allowed sufficient opportunity to prepare his defense, obtain independent evaluations and expert opinion at his own expense, and summons other witnesses. He shall be present at any hearing held under this section, unless his attorney waives his right to be present and the judge or special justice is satisfied by a clear showing and after personal observation that the person's attendance would subject him to substantial risk of physical or emotional injury or would be so disruptive as to prevent the hearing from taking place.

E. Notwithstanding the above, the judge or special justice shall summons either a physician or a clinical psychologist who is licensed in Virginia and is qualified in the assessment of persons with ~~mental retardation~~ *intellectual disability* or a person designated by the local community services board or behavioral health authority who meets the qualifications established by the Board. The physician, clinical psychologist, or community services board or behavioral health authority designee may be the one who assessed the person pursuant to subsection B of this section. The judge or special justice also shall summons other witnesses when so requested by the person or his attorney. The physician, clinical psychologist, or community services board or behavioral health authority designee shall certify that he has personally assessed the person and has probable cause to believe that the person (i) does or does not have ~~mental retardation~~ *intellectual disability*, (ii) is or is not eligible for a less restrictive service, and (iii) is or is not in need of training, ~~treatment~~, or habilitation in a training center. The judge or special justice may accept written certification of a finding of a physician, clinical psychologist, or community services board or behavioral health authority designee, provided such assessment has been personally made within the preceding 30 days and there is no objection to the acceptance of the written certification by the person or his attorney.

F. If the judge or special justice, having observed the person and having obtained the necessary positive certification and other relevant evidence, specifically finds that (i) the person is not capable of requesting his own admission, (ii) the training center has approved the proposed admission pursuant to subsection B of this section, (iii) there is no less restrictive alternative to training center admission, consistent with the best interests of the person who is the subject of the proceeding, and (iv) the person has ~~mental retardation~~ *intellectual disability* and is in need of training, ~~treatment~~, or habilitation in a training center, the judge or special justice shall by written order certify that the person is eligible for admission to a training center.

G. Certification of eligibility for admission hereunder shall not be construed as a judicial commitment for involuntary admission of the person but shall authorize the parent or guardian or other responsible person to admit the person to a training center and shall authorize the training center to accept the person.

§ 37.2-837. Discharge from state hospitals or training centers, conditional release, and trial or home visits for individuals.

A. Except for a state hospital consumer held upon an order of a court for a criminal proceeding, the director of a state hospital or training center may discharge, after the preparation of a discharge plan:

1. Any consumer in a state hospital who, in his judgment, (a) is recovered, (b) does not have a mental illness, or (c) is impaired or not recovered but whose discharge will not be detrimental to the public welfare or injurious to the consumer;

3134 2. Any consumer in a state hospital who is not a proper case for treatment within the purview of this
3135 chapter; or

3136 3. Any consumer in a training center who chooses to be discharged or, if the consumer lacks the
3137 mental capacity to choose, whose legally authorized representative chooses for him to be discharged.
3138 Pursuant to regulations of the Centers for Medicare & Medicaid Services and the Department of Medical
3139 Assistance Services, no consumer at a training center who is enrolled in Medicaid shall be discharged if
3140 the consumer or his legally authorized representative on his behalf chooses to continue receiving
3141 services in a training center.

3142 For all individuals discharged, the discharge plan shall be formulated in accordance with the
3143 provisions of § 37.2-505 by the community services board or behavioral health authority that serves the
3144 city or county where the consumer resided prior to admission or by the board or authority that serves
3145 the city or county where the consumer or his legally authorized representative on his behalf chooses to
3146 reside immediately following the discharge. The discharge plan shall be contained in a uniform
3147 discharge document developed by the Department and used by all state hospitals, training centers, and
3148 community services boards or behavioral health authorities, and shall identify (i) the services, including
3149 mental health, ~~mental retardation~~ *developmental*, substance abuse, social, educational, medical,
3150 employment, housing, legal, advocacy, transportation, and other services that the consumer will require
3151 upon discharge into the community and (ii) the public or private agencies that have agreed to provide
3152 these services. If the individual will be housed in an assisted living facility, as defined in § 63.2-100, the
3153 discharge plan shall identify the facility, document its appropriateness for housing and capacity to care
3154 for the consumer, contain evidence of the facility's agreement to admit and care for the consumer, and
3155 describe how the community services board or behavioral health authority will monitor the consumer's
3156 care in the facility.

3157 B. The director may grant a trial or home visit to a consumer in accordance with regulations adopted
3158 by the Board. The state facility granting a trial or home visit to a consumer shall not be liable for his
3159 expenses during the period of that visit. Such liability shall devolve upon the relative, conservator,
3160 person to whose care the consumer is entrusted while on the trial or home visit, or the appropriate local
3161 department of social services of the county or city in which the consumer resided at the time of
3162 admission pursuant to regulations adopted by the State Board of Social Services.

3163 C. Any consumer who is discharged pursuant to subdivision A 2 shall, if necessary for his welfare,
3164 be received and cared for by the appropriate local department of social services. The provision of public
3165 assistance or social services to the consumer shall be the responsibility of the appropriate local
3166 department of social services as determined by regulations adopted by the State Board of Social
3167 Services. Expenses incurred for the provision of public assistance to the consumer who is receiving
3168 24-hour care while in an assisted living facility licensed pursuant to Chapters 17 (§ 63.2-1700 et seq.)
3169 and 18 (§ 63.2-1800 et seq.) of Title 63.2 shall be the responsibility of the appropriate local department
3170 of social services of the county or city in which the consumer resided at the time of admission.

3171 § 38.2-3323. Group life insurance coverages of spouses, dependent children, and other persons.

3172 A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1 B,
3173 may be extended to insure:

3174 1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time
3175 student under 25 years of age, or any class of spouses and dependent children, of each insured group
3176 member who so elects; and

3177 2. Any other person in whom the insured group member has an insurable interest as defined in
3178 §§ 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

3179 The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount
3180 of insurance for which the insured group member is eligible.

3181 B. A spouse insured under this section shall have the same conversion right to the insurance on his
3182 or her life as the insured group member.

3183 C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured
3184 group member if a statement concerning any spouse's, dependent child's, or other person's coverage is
3185 included in the certificate.

3186 D. In addition to the coverages afforded by the provisions of this section, any such plan for group
3187 life insurance which includes coverage for children shall afford coverage to any child who is both (i)
3188 incapable of self-sustaining employment by reason of ~~mental retardation~~ *intellectual disability* or
3189 physical handicap and (ii) chiefly dependent upon the employee for support and maintenance. Upon
3190 request of the insurer, proof of incapacity and dependency shall be furnished to the insurer by the
3191 insured group member within 31 days of the child's attainment of the specified age. Subsequent proof
3192 may be required by the insurer but not more frequently than annually after the two-year period
3193 following the child's attainment of the specified age. The insurer shall be allowed to charge a premium
3194 at the insurer's then customary rate applicable to such group policy for such extended coverage.

3195 E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued

to him by the insurer, without evidence of insurability, an individual life insurance policy without disability or other supplementary benefits, if:

a. An application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination; and

b. The individual policy, at the option of such person, is on any one of the forms then customarily issued by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect term insurance;

c. The individual policy is in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person becomes eligible under the same or any other group policy within 31 days after such termination, provided that any amount of insurance which has matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

d. The premium on the individual policy is at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to the individual age attained on the effective date of the individual policy.

2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to a surviving dependent, if any, at the death of the group member, with respect to the coverage under the group policy which terminates by reason of such death, and (ii) to the dependent of the group member upon termination of coverage of the dependent, while the group member remains insured under the group policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

§ 38.2-3409. Coverage of dependent children.

A. Any group or individual accident and sickness insurance policy or subscription contract delivered or issued for delivery in this Commonwealth which provides that coverage of a dependent child shall terminate upon that child's attainment of a specified age, shall also provide in substance that attainment of the specified age shall not terminate the child's coverage during the continuance of the policy while the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason of ~~mental retardation~~ *intellectual disability* or physical handicap, and (ii) chiefly dependent upon the policyowner for support and maintenance.

B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within ~~thirty-one~~ 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age.

C. The insurer may charge an additional premium for any continuation of coverage beyond the specified age. The additional premium shall be determined by the insurer on the basis of the class of risks applicable to the child.

§ 40.1-28.9. Definition of terms.

As used in this article:

A. "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee;

B. "Employee" includes any individual employed by an employer, except the following:

1. Any person employed as a farm laborer or farm employee;

2. Any person employed in domestic service or in or about a private home or in an eleemosynary institution primarily supported by public funds;

3. Any person engaged in the activities of an educational, charitable, religious or nonprofit organization where the relationship of employer-employee does not, in fact, exist, or where the services rendered to such organizations are on a voluntary basis;

4. Newsboys, shoe-shine boys, caddies on golf courses, babysitters, ushers, doormen, concession attendants and cashiers in theaters;

5. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

6. Any person under the age of ~~eighteen~~ 18 in the employ of his father, mother or legal guardian;

7. Any person confined in any penal, ~~or~~ *or* corrective ~~or~~ *or* mental institution of the State or any of its political subdivisions ~~or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;~~

8. Any person employed by a boys' and/or girls' summer camp;

9. Any person under the age of ~~sixteen~~ 16, regardless of by whom employed;

10. Any person who normally works and is paid based on the amount of work done;

3257 11. (Reserved);
3258 12. Any person whose employment is covered by the Fair Labor Standards Act of 1938 as amended;
3259 13. Any person whose earning capacity is impaired by physical ~~or mental~~ deficiency, *mental illness*,
3260 *or intellectual disability*;
3261 14. Students and apprentices participating in a bona fide educational or apprenticeship program;
3262 15. Any person employed by an employer who does not have four or more persons employed at any
3263 one time; provided that husbands, wives, sons, daughters and parents of the employer shall not be
3264 counted in determining the number of persons employed;
3265 16. Any person who is less than ~~eighteen~~ 18 years of age and who is currently enrolled on a
3266 full-time basis in any secondary school, institution of higher education or trade school, provided the
3267 person is not employed more than ~~twenty~~ 20 hours per week;
3268 16A. Any person of any age who is currently enrolled on a full-time basis in any secondary school,
3269 institution of higher education or trade school and is in a work-study program or its equivalent at the
3270 institution at which he or she is enrolled as a student;
3271 17. Any person who is less than ~~eighteen~~ 18 years of age and who is under the jurisdiction and
3272 direction of a juvenile and domestic relations district court.
3273 C. "Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash
3274 on demand or upon acceptance at full value; provided, wages may include the reasonable cost to the
3275 employer of furnishing meals and for lodging to an employee, if such board or lodging is customarily
3276 furnished by the employer, and used by the employee.
3277 D. In determining the wage of a tipped employee, the amount paid such employee by his employer
3278 shall be deemed to be increased on account of tips by an amount determined by the employer, except in
3279 the case of an employee who establishes by clear and convincing evidence that the actual amount of tips
3280 received by him was less than the amount determined by the employer. In such case, the amount paid
3281 such employee by his employer shall be deemed to have been increased by such lesser amount.
3282 § 46.2-400. Suspension of license of person incompetent because of mental illness, intellectual
3283 disability, alcoholism, or drug addiction; return of license; duty of clerk of court.
3284 The Commissioner, on receipt of notice that any person has been legally adjudged to be incapacitated
3285 in accordance with Article 1 (§ 37.2-1000 et seq.) of Chapter 10 of Title 37.2 or that a person
3286 discharged from an ~~institution~~ *a facility* operated or licensed by the Department of Behavioral Health
3287 and Developmental Services is, in the opinion of the authorities of the ~~institution~~ *facility*, not competent
3288 because of mental illness, ~~mental retardation~~ *intellectual disability*, alcoholism, or drug addiction to drive
3289 a motor vehicle with safety to persons or property, shall forthwith suspend his license; but he shall not
3290 suspend the license if the person has been adjudged competent by judicial order or decree.
3291 In any case in which the person's license has been suspended prior to his discharge it shall not be
3292 returned to him unless the Commissioner is satisfied, after an examination such as is required of
3293 applicants by § 46.2-325, that the person is competent to drive a motor vehicle with safety to persons
3294 and property.
3295 The clerk of the court in which the adjudication is made shall forthwith send a certified copy or
3296 abstract of such adjudication to the Commissioner.
3297 § 46.2-401. Reports to Commissioner of discharge of individuals from state facilities.
3298 Whenever practicable, at least ~~ten~~ 10 days prior to the time when any patient is to be discharged
3299 from any institution operated or licensed by the Department of Behavioral Health and Developmental
3300 Services, if the mental condition of the patient is, because of mental illness, ~~mental retardation~~
3301 *intellectual disability*, alcoholism, or drug addiction, in the judgment of the director or chief medical
3302 officer of the ~~institution~~ *facility* such as to prevent him from being competent to drive a motor vehicle
3303 with safety to persons and property, the director or chief medical officer shall forthwith report to the
3304 Commissioner, in sufficient detail for accurate identification, the date of discharge of the patient,
3305 together with a statement concerning his ability to drive a motor vehicle.
3306 § 51.1-513.3. Long-term care insurance program for employees of local governments, local officers,
3307 and teachers.
3308 A. The Board shall maintain and administer a plan or plans, hereinafter "plan" or "plans," for
3309 providing long-term care coverage for employees of local governments, local officers, and teachers. The
3310 plan or plans may also extend coverage to eligible family members of such employees of local
3311 governments, local officers, or teachers. The plan or plans may, but need not, be rated separately from
3312 any plan developed to provide long-term care coverage for state employees under § 51.1-513.2.
3313 Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's
3314 respective governing body, or by the local school board in the case of teachers, and (iii) subject to
3315 policies and procedures adopted by the Board.
3316 B. For the purposes of this section:
3317 "Employees of local governments" shall include all officers and employees, working an average of at
3318 least 20 hours per week, of the governing body of any county, city, or town, and the directing or

governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department; welfare board; ~~mental health, mental retardation and substance abuse~~ *community services board or behavioral health authority*; or library board of a county, city, or town shall be deemed to be employees of local government.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees, working an average of at least 20 hours per week, of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board working an average of at least 20 hours per week.

§ 51.5-3. Definitions.

As used in this title except where the context requires a different meaning or where it is otherwise provided, the following words shall have the meaning ascribed to them:

"Case management" is a dynamic collaborative process that utilizes and builds on the strengths and resources of consumers to assist them in identifying their needs, accessing and coordinating services, and achieving their goals. The major collaborative components of case management services include advocacy, assessment, planning, facilitation, coordination, and monitoring.

"Case management system" is a central point of contact linking a wide variety of evolving services and supports that are (i) available in a timely, coordinated manner, (ii) physically and programmatically accessible, and (iii) consumer-directed with procedural safeguards to ensure responsiveness and accountability.

"Client" means any person receiving a service provided by the personnel or facilities of a public or private agency, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of Rehabilitative Services.

"Consumer" is, with respect to case management services, a person with a disability or his designee, guardian, conservator or committee.

"Council" means the State Rehabilitation Council.

"Mental impairment" means (i) a disability attributable to ~~mental retardation~~ *intellectual disability*, autism, or any other neurologically handicapping condition closely related to ~~mental retardation~~ *intellectual disability* and requiring treatment similar to that required by ~~mentally retarded~~ individuals *with intellectual disability*; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual. For the purposes of § 51.5-41, the term "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease or defect that has been successfully asserted by an individual as a defense to any criminal charge.

"Otherwise qualified person with a disability" means a person with a disability who:

1. For the purposes of § 51.5-41, is qualified to perform the duties of a particular job or position; or
2. For the purposes of § 51.5-42, meets all the requirements for admission to an educational institution or meets all the requirements for participation in its extracurricular programs.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or has a record of such impairment and that:

1. For purposes of § 51.5-41, is unrelated to the individual's ability to perform the duties of a particular job or position, or is unrelated to the individual's qualifications for employment or promotion;
2. For purposes of § 51.5-42, is unrelated to the individual's ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution;
3. For purposes of § 51.5-44, is unrelated to the individual's ability to utilize and benefit from a place of public accommodation or public service;
4. For purposes of § 51.5-45, is unrelated to the individual's ability to acquire, rent, or maintain property.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

§ 51.5-30. Cooperative agreements with community services boards and schools.

No services funded under the authority of this chapter shall be provided to:

1. Persons whose primary impairment is mental illness, ~~mental retardation~~ *intellectual disability*, or

3380 substance abuse, except by cooperative agreement with the local community services board established
3381 pursuant to Chapter 5 (§ 37.2-500 et seq.) of Title 37.2 *or the behavioral health authority established*
3382 *pursuant to Chapter 6 (§ 37.2-600 et seq.) of Title 37.2* when that board *or authority* is currently
3383 offering the same services; or

3384 2. Public school-aged persons, except by cooperative agreement with that person's school.

3385 § 51.5-39.7. (See Editor's notes) Ombudsman services for persons with disabilities.

3386 A. There is hereby created within the Office an ombudsman section. The Director shall establish
3387 procedures for receiving complaints and conducting investigations for the purposes of resolving and
3388 mediating complaints regarding any activity, practice, policy, or procedure of any hospital, facility or
3389 program operated, funded or licensed by the Department of Behavioral Health and Developmental
3390 Services, the Department of Rehabilitative Services, the Department of Social Services, or any other
3391 state or local agency, that is adversely affecting the health, safety, welfare or civil or human rights of
3392 any person with mental, cognitive, sensory or physical disabilities. After initial investigation, the section
3393 may decline to accept any complaint it determines is frivolous or not made in good faith. The
3394 ombudsman section shall attempt to resolve the complaint at the lowest appropriate level, unless
3395 otherwise provided by law. The procedures shall require the section to:

3396 1. Acknowledge the receipt of a complaint by sending written notice to the complainant within seven
3397 days after receiving the complaint;

3398 2. When appropriate, provide written notice of a complaint to the Department of Behavioral Health
3399 and Developmental Services or any other appropriate agency within seven days after receiving the
3400 complaint. The Department or agency shall report its findings and actions no later than ~~fourteen~~ 14 days
3401 after receiving the complaint;

3402 3. Immediately refer a complaint made under this section to the Department of Behavioral Health and
3403 Developmental Services or any other appropriate governmental agency whenever the complaint involves
3404 an immediate and substantial threat to the health or safety of a person with ~~mental retardation~~
3405 *intellectual disability*, developmental disabilities, mental illness, or other disability. The Department or
3406 agency receiving the complaint shall report its findings and actions no later than ~~forty-eight~~ 48 hours
3407 following its receipt of the complaint;

3408 4. Within seven days after identifying a deficiency in the treatment of a person with a disability that
3409 is in violation of state or federal law or regulation, refer the matter in writing to the appropriate state
3410 agency. The state agency shall report on its findings and actions within seven days of receiving notice
3411 of the matter;

3412 5. Advise the complainant and any person with a disability affected by the complaint, no more than
3413 ~~thirty~~ 30 days after it receives the complaint, of any action it has taken and of any opinions and
3414 recommendations it has with respect to the complaint. The ombudsman section may request any party
3415 affected by the opinions or recommendations to notify the section, within a time period specified by the
3416 section, of any action the party has taken on its recommendation; and

3417 6. Refer any complaint not resolved through negotiation, mediation, or conciliation to the Director or
3418 the Director's designee to determine whether further protection and advocacy services shall be provided
3419 by the Office.

3420 B. The ombudsman section may make public any of its opinions or recommendations concerning a
3421 complaint, the responses of persons and governmental agencies to its opinions or recommendations, and
3422 any act, practice, policy, or procedure that adversely affects or may adversely affect the health, safety,
3423 welfare, or civil or human rights of a person with a disability, subject to the provisions of § 51.5-39.8.

3424 C. The Office shall publicize its existence, functions, and activities, and the procedures for filing a
3425 complaint under this section, and send this information in written form to each provider of services to
3426 persons with disabilities, with instructions that the information is to be posted in a conspicuous place
3427 accessible to patients, residents, consumers, clients, visitors, and employees. The Office shall establish,
3428 maintain and publicize a toll-free number for receiving complaints.

3429 § 51.5-39.8. Confidentiality of information.

3430 A. All documentary and other evidence received or maintained by the Office or its agents in
3431 connection with specific complaints or investigations shall be confidential and not subject to the
3432 provisions concerning disclosure of public records under the Virginia Freedom of Information Act
3433 (§ 2.2-3700 et seq.). However, access to one's own records shall not be denied unless otherwise
3434 prohibited by state or federal law. Records concerning closed cases shall be subject to the disclosure
3435 requirements of the Virginia Freedom of Information Act, but in a manner that does not identify any
3436 complainant or any person with mental illness, ~~mental retardation~~ *intellectual disability*, developmental
3437 disabilities or other disability, unless (i) such complainant or person or his legal representative consents
3438 in writing to such identification or (ii) such identification is required by court order.

3439 B. Communications between employees and agents of the Office and its clients or prospective clients
3440 concerning specific complaints, investigations or cases shall be confidential.

3441 C. Notwithstanding the provisions of this section, the Office shall be permitted to:

1. Issue a public report of the results of an investigation of a founded complaint that does not release the identity of any complainant or any person with mental illness, ~~mental retardation~~ *intellectual disability*, developmental disabilities or other disability, unless (a) such complainant or person or his legal representative consents in writing to such disclosure or (b) such disclosure is required by court order; and

2. Report the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning any hospital, facility or other entity, its staff or employees, warranting possible sanctions or corrective action. This information may be reported to agencies responsible for licensing or accreditation, employee discipline, employee licensing or certification or criminal prosecution.

§ 53.1-216. Governor to execute; form of compact.

The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I.

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the Federal Government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II.

As used in this compact, unless the context clearly requires otherwise:

a. "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

b. "Sending state" means a state party to this compact in which conviction or court commitment was had.

c. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

d. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

e. "Institution" means any penal or correctional facility, including but not limited to a facility for ~~the mentally ill or mentally defective individuals with mental illness or intellectual disability~~, in which inmates as defined in d above may lawfully be confined.

ARTICLE III.

a. Each party state may make one or more contracts with any one or more of the other party states, or with the Federal Government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) Its duration.

(2) Payments to be made to the receiving state or to the Federal Government, by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(3) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

(4) Delivery and retaking of inmates.

(5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

b. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV.

a. Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

b. The appropriate officials of any state party to this compact shall have access, at all reasonable

3503 times, to any institution in which it has a contractual right to confine inmates for the purpose of
3504 inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

3505 c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be
3506 subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to
3507 a prison or other institution within the sending state, for transfer to another institution in which the
3508 sending state may have a contractual or other right to confine inmates, for release on probation or
3509 parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that
3510 the sending state shall continue to be obligated to such payments as may be required pursuant to the
3511 terms of any contract entered into under the terms of Article III.

3512 d. Each receiving state shall provide regular reports to each sending state on the inmates of that
3513 sending state in institutions pursuant to this compact including a conduct record of each inmate and
3514 certify said record to the official designated by the sending state, in order that each inmate may have
3515 official review of his or her record in determining and altering the disposition of said inmate in
3516 accordance with the law which may obtain in the sending state and in order that the same may be a
3517 source of information for the sending state.

3518 e. All inmates who may be confined in an institution pursuant to the provisions of this compact shall
3519 be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of
3520 the receiving state as may be confined in the same institution. The fact of confinement in a receiving
3521 state shall not deprive any inmate so confined of any legal rights which said inmate would have had if
3522 confined in an appropriate institution of the sending state.

3523 f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by
3524 the laws of the sending state may be had before the appropriate authorities of the sending state, or of
3525 the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities
3526 for such hearings as may be conducted by the appropriate officials of a sending state. In the event such
3527 hearing or hearings are had before officials of the receiving state, the governing law shall be that of the
3528 sending state and a record of the hearing or hearings as prescribed by the sending state shall be made.
3529 Said record together with any recommendations of the hearing officials shall be transmitted forthwith to
3530 the official or officials before whom the hearing would have been had if it had taken place in the
3531 sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials
3532 of the receiving state shall act solely as agents of the sending state and no final determination shall be
3533 made in any matter except by the appropriate officials of the sending state.

3534 g. Any inmate confined pursuant to this compact shall be released within the territory of the sending
3535 state unless the inmate, and the sending and receiving states, shall agree upon release in some other
3536 place. The sending state shall bear the cost of such return to its territory.

3537 h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to
3538 participate in and derive any benefits or incur or be relieved of any obligations or have such obligations
3539 modified or his status changed on account of any action or proceeding in which he could have
3540 participated if confined in any appropriate institution of the sending state located within such state.

3541 i. The parents, guardian, trustee, or other person or persons entitled under the laws of the sending
3542 state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or
3543 restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this
3544 compact.

3545 ARTICLE V.

3546 a. Any decision of the sending state in respect of any matter over which it retains jurisdiction
3547 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at
3548 the time the sending state seeks to remove an inmate from an institution in the receiving state there is
3549 pending against the inmate within such state any criminal charge or if the inmate is formally accused of
3550 having committed within such state a criminal offense, the inmate shall not be returned without the
3551 consent of the receiving state until discharge from prosecution or other form of proceeding,
3552 imprisonment or detention for such offense. The duly accredited officers of the sending state shall be
3553 permitted to transport inmates pursuant to this compact through any and all states party to this compact
3554 without interference.

3555 b. An inmate who escapes from an institution in which he is confined pursuant to this compact shall
3556 be deemed a fugitive from the sending state and from the state in which the institution is situated. In the
3557 case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for
3558 institution of extradition or rendition proceedings shall be that of the sending state, but nothing
3559 contained herein shall be construed to prevent or affect the activities of officers and agencies of any
3560 jurisdiction directed toward the apprehension and return of an escapee.

3561 ARTICLE VI.

3562 Any state party to this compact may accept federal aid for use in connection with any institution or
3563 program, the use of which is or may be affected by this compact or any contract pursuant hereto and
3564 any inmate in a receiving state pursuant to this compact may participate in any such federally-aided

program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII.

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII.

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX.

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X.

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 54.1-701. Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in the Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of ~~the mentally ill or mentally deficient individuals with mental illness or intellectual disability~~, or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, hair braiders, estheticians, barber instructors, cosmetology instructors, wax technician instructors, nail technician instructors, or esthetics instructors who practice only on inmates of or patients in such sanatoria or institutions;
4. Persons licensed as funeral directors or embalmers in the Commonwealth;
5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, hair braider, tattooer, body-piercer, or esthetician;
6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, waxing, hair braiding, tattooing, body-piercing, or esthetics;
7. Persons working in a cosmetology salon whose duties are expressly confined to hair braiding or the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;
8. Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, hair braiding salon, or esthetics spa licensed by the Board in accordance with the Board's regulations;
9. Schools of barbering, nail care, waxing, cosmetology, or hair braiding in public schools; and
10. Persons whose activities are confined solely to applying make-up, including such activities that are ancillary to applying make-up.

§ 54.1-2970. Medical treatment for certain persons incapable of giving informed consent.

When a delay in treatment might adversely affect recovery, a licensed health professional or licensed hospital shall not be subject to liability arising out of a claim based on lack of informed consent or be prohibited from providing surgical, medical or dental treatment to an individual who is a patient or resident of a hospital or facility operated by the Department of Behavioral Health and Developmental Services or to a consumer who is receiving case management services from a community services board or behavioral health authority and who is incapable of giving informed consent to the treatment by reason of mental illness or ~~mental retardation~~ *intellectual disability* under the following conditions:

1. No legally authorized guardian or committee was available to give consent;

2. A reasonable effort is made to advise a parent or other next of kin of the need for the surgical, medical or dental treatment;

3. No reasonable objection is raised by or on behalf of the alleged incapacitated person; and

4. Two physicians, or in the case of dental treatment, two dentists or one dentist and one physician, state in writing that they have made a good faith effort to explain the necessary treatment to the individual, and they have probable cause to believe that the individual is incapacitated and unable to consent to the treatment by reason of mental illness or ~~mental retardation~~ *intellectual disability* and that delay in treatment might adversely affect recovery.

The provisions of this section shall apply only to the treatment of physical injury or illness and not to any treatment for a mental, emotional or psychological condition.

Treatment pursuant to this section of an individual's mental, emotional or psychological condition when the individual is unable to make an informed decision and when no legally authorized guardian or committee is available to provide consent shall be governed by regulations ~~promulgated~~ *adopted* by the State Board of Behavioral Health and Developmental Services under § 37.2-400.

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the health care of the patient.

"Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training or experience to assess whether a person is capable or incapable of making an informed decision.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, ~~mental retardation~~ *intellectual disability*, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, continuing, withholding or withdrawing a specific health care treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed health care decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Patient care consulting committee" means a committee duly organized by a facility licensed to

provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient care consulting committee shall consist of five individuals, including at least one physician, one person licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice professional nursing, and one individual responsible for the provision of social services to patients of the facility. At least one committee member shall have experience in clinical ethics and at least two committee members shall have no employment or contractual relationship with the facility or any involvement in the management, operations, or governance of the facility, other than serving on the patient care consulting committee. A patient care consulting committee may be organized as a subcommittee of a standing ethics or other committee established by the facility or may be a separate and distinct committee. Four members of the patient care consulting committee shall constitute a quorum of the patient care consulting committee.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the health care is to be rendered or withheld.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access

3749 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
3750 Airports Authority (MWAA), as follows:

3751 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
3752 Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to
3753 MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as
3754 provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
3755 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
3756 than it received in fiscal year 1994-1995.

3757 Of the remaining amount:

3758 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
3759 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
3760 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
3761 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

3762 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
3763 airports on a discretionary basis, except airports owned or leased by MWAA.

3764 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
3765 on a discretionary basis.

3766 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
3767 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
3768 Transit Fund.

3769 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
3770 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
3771 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
3772 paid to any local governing body, transportation district commission, or public service corporation for
3773 the purposes hereinafter specified.

3774 b. The amounts allocated pursuant to this section shall be used to support the public transportation
3775 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
3776 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95
3777 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the
3778 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
3779 facilities, and associated costs. Capital costs may include debt service payments on local or agency
3780 transit bonds. The term "borne by the locality" means the local share eligible for state assistance
3781 consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance
3782 received by the locality.

3783 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth
3784 Transportation Board as follows:

3785 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical
3786 assistance, shall not exceed 1.5 percent of the Fund.

3787 (2) The Board may allocate these funds to any locality or planning district commission to finance up
3788 to 80 percent of the local share of all costs associated with the development, implementation, and
3789 continuation of ridesharing programs.

3790 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
3791 transportation district commission, or public corporation or may be used directly by the Department of
3792 Rail and Public Transportation for the following purposes:

3793 (a) To finance up to 95 percent of the capital costs related to the development, implementation and
3794 promotion of experimental public transportation and ridesharing projects approved by the Board.

3795 (b) To finance up to 95 percent of the operating costs of experimental mass transportation and
3796 ridesharing projects approved by the Board for a period of time not to exceed 12 months.

3797 (c) To finance up to 95 percent of the cost of the development and implementation of any other
3798 project designated by the Board where the purpose of such project is to enhance the provision and use
3799 of public transportation services.

3800 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
3801 governing body, planning district commission, transportation district commission, or public transit
3802 corporation, or may be used directly by the Department of Rail and Public Transportation for the
3803 following purposes and aid of public transportation services:

3804 (1) At the approval of the Board to finance a program administered by the Department of Rail and
3805 Public Transportation designed to promote the use of public transportation and ridesharing throughout
3806 Virginia.

3807 (2) To finance up to 50 percent of the local share of public transportation operations planning and
3808 technical study projects approved by the Board.

3809 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
3810 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for

the purposes specified in subdivision 4 b.

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal share of the total project cost.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for these payments.

b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of ~~this~~ the Commonwealth in the manner provided in subsections C and D.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such

3872 population estimate produced by the Weldon Cooper Center for Public Service of the University of
3873 Virginia shall account for ~~persons who are confined~~ *individuals receiving services* in state hospitals, ~~state~~
3874 ~~training schools or state training centers for the mentally retarded, or mental institutions, or health~~
3875 ~~facilities; persons who are confined in~~ state or federal correctional institutions; or ~~persons~~ who attend
3876 the Virginia School for the Deaf and the Blind within the school division in which the parents or
3877 guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper
3878 Center for Public Service of the University of Virginia shall account for persons who attend institutions
3879 of higher education within the school division in which the student's parents or guardians legally reside.
3880 To such estimate, the Department of Education shall add the population of students with disabilities,
3881 ages two through four and 20 through 21, as provided to the Department of Education by school
3882 divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties
3883 and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses
3884 incurred in the operation of the public schools, which shall be considered as funds raised from local
3885 resources. In any county, however, wherein is situated any incorporated town constituting a school
3886 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
3887 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
3888 proportionate amount received by him in the ratio that the school population of such town bears to the
3889 school population of the entire county. If the school population of any city or of any town constituting a
3890 school division is increased by the annexation of territory since the last estimate of school population
3891 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
3892 section, be added to the school population of such city or town as shown by the last such estimate and a
3893 proper reduction made in the school population of the county or counties from which the annexed
3894 territory was acquired.

3895 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
3896 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
3897 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
3898 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
3899 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
3900 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
3901 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
3902 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
3903 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
3904 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
3905 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
3906 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
3907 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
3908 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
3909 balance in the Capital Improvement Fund is less than \$35 million.

3910 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
3911 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
3912 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
3913 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
3914 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
3915 increase as provided in this subdivision. The transfers to the Public Education Standards of
3916 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
3917 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
3918 the month of August 2004 and for each month thereafter.

3919 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
3920 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
3921 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
3922 days of receiving such certification, the Comptroller shall make the required transfers to the Public
3923 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

3924 G. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
3925 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

3926 H. The term "net revenue," as used in this section, means the gross revenue received into the general
3927 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
3928 less refunds to taxpayers.

3929 § 60.2-213. Employment with hospital, higher education, state, subdivision, or certain religious or
3930 charitable organizations.

3931 A. "Employment" includes:

3932 1. Service performed by an individual (i) in the employ of ~~this the~~ Commonwealth or any of its
3933 political subdivisions or instrumentalities or (ii) in the employ of ~~this the~~ Commonwealth and one or

more other states or their political subdivisions or instrumentalities, for a hospital or institution of higher education located in this Commonwealth provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of § 3306 (c) (7) of that act and is not excluded from "employment" under subsection B of this section;

2. Service performed by an individual (i) in the employ of ~~this~~ *the* Commonwealth or any of its wholly owned instrumentalities or (ii) in the employ of ~~this~~ *the* Commonwealth and one or more other states or their instrumentalities, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act (26 U.S.C.) by § 3306 (c) (7) of that act and is not excluded from "employment" under subsection B of this section;

3. Service performed by an individual (i) in the employ of any political subdivision of ~~this~~ *the* Commonwealth or any of its wholly owned instrumentalities or (ii) in the employ of any instrumentality wholly owned by this Commonwealth, any of its political subdivisions or instrumentalities, or any instrumentality wholly owned by any of the foregoing and one or more other states or their political subdivisions, provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by § 3306 (c) (7) of that act and is not excluded from "employment" under subsection B of this section;

4. Service performed by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

a. Their service is excluded from "employment" as defined in the Federal Unemployment Tax Act (26 U.S.C.) solely by reason of § 3306 (c) (8) of that act; and

b. The organization had four or more individuals in employment for some portion of a day in each of ~~twenty~~ 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

B. For the purposes of subdivisions A 3 and 4 of ~~subsection A of this section~~, the term "employment" does not apply to service performed:

1. In the employ of (i) a church or convention or association of churches, or (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

2. By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

3. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age ~~or~~, physical ~~or~~ mental deficiency, *mental illness, intellectual disability*, or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

4. As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

5. By an inmate of a custodial or penal institution; or

6. In the employ of ~~this~~ *the* Commonwealth, or any political subdivision thereof or any instrumentality of any one or more of the foregoing as set forth in subdivisions A 1 through 3 of ~~subsection A of this section~~, if such service is performed by an individual in the exercise of duties:

a. As an elected official;

b. As a member of a legislative body, or a member of the judiciary;

c. As a member of the state National Guard or Air National Guard;

d. As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

e. In a position which, under or pursuant to the laws of ~~this~~ *the* Commonwealth, is designated as (i) a major nontenured policymaking or advisory position; or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

§ 63.2-1000. Interstate Compact on the Placement of Children; form of compact.

The Governor of Virginia is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I.

Purpose and Policy.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a

3995 necessary and desirable degree and type of care.

3996 (b) The appropriate authorities in a state where a child is to be placed may have full opportunity to
3997 ascertain the circumstances of the proposed placement, thereby promoting full compliance with
3998 applicable requirements for the protection of the child.

3999 (c) The proper authorities of the state from which the placement is made may obtain the most
4000 complete information on the basis of which to evaluate a projected placement before it is made.

4001 (d) Appropriate jurisdictional arrangements for the care of children will be promoted.

4002 ARTICLE II.

4003 Definitions.

4004 As used in this compact:

4005 (a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or
4006 similar control.

4007 (b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state,
4008 or officer or employee thereof; a court of a party state; a person, corporation, association, charitable
4009 agency or other entity which sends, brings, or causes to be sent or brought any child to another party
4010 state.

4011 (c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or
4012 brought, whether by public authorities or private persons or agencies, and whether for placement with
4013 state or local public authorities or for placement with private agencies or persons.

4014 (d) "Placement" means the arrangement for the care of a child in a family free or boarding home or
4015 in a child-caring agency or institution but does not include any institution caring for ~~the mentally ill,~~
4016 ~~mentally defective or epileptic individuals with mental illness, intellectual disability, or epilepsy~~ or any
4017 institution primarily educational in character, and any hospital or other medical facility.

4018 ARTICLE III.

4019 Conditions for Placement.

4020 (a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any
4021 child for placement in foster care or as a preliminary to a possible adoption unless the sending agency
4022 shall comply with each and every requirement set forth in this article and with the applicable laws of
4023 the receiving state governing the placement of children therein.

4024 (b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for
4025 placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the
4026 appropriate public authorities in the receiving state written notice of the intention to send, bring, or place
4027 the child in the receiving state. The notice shall contain:

4028 (1) The name, date and place of birth of the child.

4029 (2) The identity and address or addresses of the parents or legal guardian.

4030 (3) The name and address of the person, agency or institution to or with which the sending agency
4031 proposes to send, bring, or place the child.

4032 (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to
4033 which the placement is proposed to be made.

4034 (c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to
4035 paragraph (b) of this article may request of the sending agency, or any other appropriate officer or
4036 agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or
4037 additional information as it may deem necessary under the circumstances to carry out the purpose and
4038 policy of this compact.

4039 (d) The child shall not be sent, brought or caused to be sent or brought into the receiving state until
4040 the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the
4041 effect that the proposed placement does not appear to be contrary to the interests of the child.

4042 ARTICLE IV.

4043 Penalty for Illegal Placement.

4044 The sending, bringing, or causing to be sent or brought into any receiving state of a child in
4045 violation of the terms of this compact shall constitute a violation of the laws respecting the placement of
4046 children of both the state in which the sending agency is located or from which it sends or brings the
4047 child and of the receiving state. Such violation may be punished or subjected to penalty in either
4048 jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any
4049 such violation shall constitute full and sufficient grounds for the suspension or revocation of any license,
4050 permit, or other legal authorization held by the sending agency which empowers or allows it to place, or
4051 care for children.

4052 ARTICLE V.

4053 Retention of Jurisdiction.

4054 (a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in
4055 relation to the custody, supervision, care, treatment and disposition of the child which it would have had
4056 if the child had remained in the sending agency's state, until the child is adopted, reaches majority,

becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such cases by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI.

Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII.

Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have the power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII.

Limitations.

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX.

Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X.

Construction and Severability.

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 63.2-1105. Children placed out of Commonwealth.

A. Any child-placing agency, licensed pursuant to Subtitle IV (§ 63.2-1700 et seq.), local board or

4118 court that takes or sends, or causes to be taken or sent, any resident child out of the Commonwealth for
4119 the purpose of an interstate or intercountry placement shall comply with the appropriate provisions of
4120 the Interstate Compact on the Placement of Children (§ 63.2-1000 et seq.) or shall first obtain the
4121 consent of the Commissioner, given in accordance with regulations of the Board relating to resident
4122 children so taken or sent out of the Commonwealth.

4123 B. The Board is authorized to adopt regulations for the placement of children out of the
4124 Commonwealth by licensed child-placing agencies, local boards or courts as are reasonably conducive to
4125 the welfare of such children and as comply with the Interstate Compact on the Placement of Children
4126 (§ 63.2-1000 et seq.). Provided, however, notwithstanding the provisions of subdivision (d) of Article II
4127 of the compact that exclude from the definition of "placement" those institutions that care for ~~the~~
4128 ~~mentally ill, mentally defective or epileptic individuals with mental illness, intellectual disability, or~~
4129 ~~epilepsy~~ or any institution primarily educational in character and any hospital or other medical facility,
4130 the Board shall prescribe procedures and regulations to govern such placements out of the
4131 Commonwealth by licensed child-placing agencies, local boards or courts.

4132 § 63.2-1603. Protection of adults; definitions.

4133 As used in this article:

4134 "Adult" means any person 60 years of age or older, or any person 18 years of age or older who is
4135 incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying
4136 nonresidents who are temporarily in the Commonwealth and who are in need of temporary or
4137 emergency protective services.

4138 "Emergency" means that an adult is living in conditions that present a clear and substantial risk of
4139 death or immediate and serious physical harm to himself or others.

4140 "Incapacitated person" means any adult who is impaired by reason of mental illness, ~~mental~~
4141 ~~retardation~~ *intellectual disability*, physical illness or disability, advanced age or other causes to the extent
4142 that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible
4143 decisions concerning his or her well-being.

4144 § 63.2-1805. Admissions and discharge.

4145 A. The Board shall adopt regulations:

4146 1. Governing admissions to assisted living facilities;

4147 2. Requiring that each assisted living facility prepare and provide a statement, in a format prescribed
4148 by the Department, to any prospective resident and his legal representative, if any, prior to admission
4149 and upon request, that discloses information, fully and accurately in plain language, about the (i)
4150 services; (ii) fees, including clear information about what services are included in the base fee and any
4151 fees for additional services; (iii) admission, transfer, and discharge criteria, including criteria for transfer
4152 to another level of care within the same facility or complex; (iv) general number and qualifications of
4153 staff on each shift; (v) range, frequency, and number of activities provided for residents; and (vi)
4154 ownership structure of the facility;

4155 3. Establishing a process to ensure that each resident admitted or retained in an assisted living
4156 facility receives appropriate services and periodic independent reassessments and reassessments when
4157 there is a significant change in the resident's condition in order to determine whether a resident's needs
4158 can continue to be met by the facility and whether continued placement in the facility is in the best
4159 interests of the resident;

4160 4. Governing appropriate discharge planning for residents whose care needs can no longer be met by
4161 the facility;

4162 5. Addressing the involuntary discharge of residents;

4163 6. Requiring that residents are informed of their rights pursuant to § 63.2-1808 at the time of
4164 admission;

4165 7. Establishing a process to ensure that any resident temporarily detained in a facility pursuant to
4166 §§ 37.2-809 through 37.2-813 is accepted back in the assisted living facility if the resident is not
4167 involuntarily admitted pursuant to §§ 37.2-814 through 37.2-819; and

4168 8. Requiring that each assisted living facility train all employees who are mandated to report adult
4169 abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the
4170 consequences for failing to make a required report.

4171 B. If there are observed behaviors or patterns of behavior indicative of mental illness, ~~mental~~
4172 ~~retardation~~ *intellectual disability*, substance abuse, or behavioral disorders, as documented in the uniform
4173 assessment instrument completed pursuant to § 63.2-1804, the facility administrator or designated staff
4174 member shall ensure that an evaluation of the individual is or has been conducted by a qualified
4175 professional as defined in regulations. If the evaluation indicates a need for mental health, ~~mental~~
4176 ~~retardation~~ *developmental*, substance abuse, or behavioral disorder services, the facility shall provide (i)
4177 a notification of the resident's need for such services to the authorized contact person of record when
4178 available and (ii) a notification of the resident's need for such services to the community services board
4179 or behavioral health authority established pursuant to Title 37.2 that serves the city or county in which

the facility is located, or other appropriate licensed provider. The Department shall not take adverse action against a facility that has demonstrated and documented a continual good faith effort to meet the requirements of this subsection.

C. The Department shall not order the removal of a resident from an assisted living facility if (i) the resident, the resident's family, the resident's physician, and the facility consent to the resident's continued stay in the assisted living facility and (ii) the facility is capable of providing, obtaining, or arranging for the provision of necessary services for the resident, including, but not limited to, home health care and/or hospice care.

D. Notwithstanding the provisions of subsection C ~~above~~, assisted living facilities shall not admit or retain an individual with any of the following conditions or care needs:

1. Ventilator dependency.

2. Dermal ulcers III and IV, except those stage III ulcers that are determined by an independent physician to be healing.

3. Intravenous therapy or injections directly into the vein except for intermittent intravenous therapy managed by a health care professional licensed in Virginia or as permitted in subsection E.

4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold.

5. Psychotropic medications without appropriate diagnosis and treatment plans.

6. Nasogastric tubes.

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection E.

8. An imminent physical threat or danger to self or others is presented by the individual.

9. Continuous licensed nursing care (seven-days-a-week, 24-hours-a-day) is required by the individual.

10. Placement is no longer appropriate as certified by the individual's physician.

11. Maximum physical assistance is required by the individual as documented by the uniform assessment instrument and the individual meets Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance, unless the individual's independent physician determines otherwise. Maximum physical assistance means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

12. The assisted living facility determines that it cannot meet the individual's physical or mental health care needs.

13. Other medical and functional care needs that the Board determines cannot be met properly in an assisted living facility.

E. Except for auxiliary grant recipients, at the request of the resident in an assisted living facility and when his independent physician determines that it is appropriate, (i) care for the conditions or care needs defined in subdivisions D 3 and D 7 may be provided to the resident by a licensed physician, a licensed nurse or a nurse holding a multistate licensure privilege under a physician's treatment plan, or a home care organization licensed in Virginia or (ii) care for the conditions or care needs defined in subdivision D 7 may also be provided to the resident by facility staff if the care is delivered in accordance with the regulations of the Board of Nursing for delegation by a registered nurse; *Part VIII* (18 VAC 90-20-420 et seq.) of 18 VAC 90-20.

The Board shall adopt regulations to implement the provisions of this subsection.

F. In adopting regulations pursuant to subsections A, B, C, D, and E the Board shall consult with the Departments of Health and Behavioral Health and Developmental Services.

§ 64.1-62.3. How certain legacies and devises to be construed; nonademption in certain cases.

A. Unless a contrary intention appears in the will:

1. A bequest of specific securities, whether or not expressed in number of shares, shall include as much of the bequeathed securities as is part of the estate at time of the testator's death, any additional or other securities of the same entity owned by the testator by reason of action initiated by the entity, excluding any securities acquired by the exercise of purchase options, and any securities of another entity acquired with respect to the specific securities mentioned in the bequest as a result of a merger, consolidation, reorganization or other similar action initiated by the entity;

2. A bequest or devise of specific property shall include the amount of any condemnation award for the taking of the property which remains unpaid at death and any proceeds unpaid at death on fire and casualty insurance on the property; and

3. A bequest or devise of specific property shall, in addition to such property as is part of the estate of the testator, be deemed to be a legacy of a pecuniary amount if such specific property shall, during the life of the testator and while he is under a disability, be sold by a conservator, guardian, or committee for the testator, or if proceeds of fire or casualty insurance as to such property are paid to the

4241 fiduciary. For purposes of this subdivision, the pecuniary amount shall be the net sale price or insurance
4242 proceeds, reduced by the sums received under subdivision 2. This subdivision shall not apply if, after
4243 the sale or casualty, it is adjudicated that the disability of the testator has ceased and the testator
4244 survives the adjudication by one year.

4245 B. Unless a contrary intention appears in a testator's will or durable power of attorney, a bequest or
4246 devise of specific property shall, in addition to such property as is part of the estate of the testator, be
4247 deemed to be a legacy of a pecuniary amount if such specific property shall, during the life of the
4248 testator and while he is incapacitated, be sold by an agent acting within the authority of a durable power
4249 of attorney for the testator, or if proceeds of fire or casualty insurance as to such property are paid to
4250 the agent. For purposes of this subdivision, (i) the pecuniary amount shall be the net sale price or
4251 insurance proceeds, reduced by the sums received under subdivision 2, (ii) no adjudication of testator's
4252 incapacity before death is necessary, (iii) the acts of an agent within the authority of a durable power of
4253 attorney are rebuttably presumed to be for an incapacitated testator, and (iv) an "incapacitated" person is
4254 one who is impaired by reason of mental illness, ~~mental deficiency~~ *intellectual disability*, physical illness
4255 or disability, chronic use of drugs, chronic intoxication, or other cause to the extent of lacking sufficient
4256 understanding or capacity to make or communicate responsible decisions. This subdivision shall not
4257 apply (i) if the agent's sale of the specific property or receipt of the insurance proceeds is thereafter
4258 ratified by the testator or (ii) to a power of attorney limited to one or more specific purposes.

4259 § 64.1-157.1. Nonexoneration; payment of lien if granted by agent.

4260 A. Unless a contrary intent is clearly set out in the will, a specific devise or bequest of real or
4261 personal property passes, subject to any mortgage, pledge, security interest, or other lien existing at the
4262 date of death of the testator, without the right of exoneration. A general directive in the will to pay
4263 debts shall not be evidence of a contrary intent that the mortgage, pledge, security interest or other lien
4264 be exonerated prior to passing to the legatee.

4265 B. Subsection A shall not apply to any mortgage, pledge, security interest or other lien existing at
4266 the date of death of the testator against any specifically devised or bequeathed real or personal property
4267 that was granted by an agent acting within the authority of a durable power of attorney for the testator
4268 while the testator was incapacitated. For the purposes of this section, (i) no adjudication of the testator's
4269 incapacity is necessary, (ii) the acts of an agent within the authority of a durable power of attorney are
4270 rebuttably presumed to be for an incapacitated testator, and (iii) an incapacitated person is one who is
4271 impaired by reason of mental illness, ~~mental deficiency~~ *intellectual disability*, physical illness or
4272 disability, chronic use of drugs, chronic intoxication or other cause creating a lack of sufficient
4273 understanding or capacity to make or communicate responsible decisions. This subsection shall not apply
4274 (a) if the mortgage, pledge, security interest or other lien granted by the agent on the specific property is
4275 thereafter ratified by the testator while he is not incapacitated, or (b) if the durable power of attorney
4276 was limited to one or more specific purposes and was not general in nature.

4277 C. Subsection A shall not apply to any mortgage, pledge, security interest or other lien existing at
4278 the date of the death of the testator against any specific devise or bequest of any real or personal
4279 property that was granted by a conservator, guardian or committee of the testator. This subsection shall
4280 not apply if, after the mortgage, pledge, security interest or other lien granted by the conservator,
4281 guardian or committee, there is an adjudication that the testator's disability has ceased and the testator
4282 survives that adjudication by at least one year.

4283 § 66-18. Examination and placing of such children.

4284 The Department shall make a careful physical and mental examination of every child committed to it
4285 by the courts, investigate the personal and family history of the child and his environment, and place
4286 such children at such facilities as are available. Any children committed to the Department and
4287 afterwards found to be eligible for commitment by proper proceedings to any state hospital or admission
4288 to a training center for ~~the mentally retarded individuals with intellectual disability~~ shall take precedence
4289 as to admission over all others and shall in all cases be received into the state hospital or training center
4290 within ~~forty-five~~ 45 days.

4291 § 66-20. Observation and treatment of children with mental illness or intellectual disability.

4292 After commitment of any child to the Department, if the Department finds, as a result of psychiatric
4293 examinations and case study, that such child is ~~mentally ill or mentally retarded~~ *has mental illness or*
4294 *intellectual disability*, it shall be the duty of the Department to obtain treatment for the child's mental
4295 condition. If the Department determines that transfer to a state hospital, training center, or other
4296 appropriate treatment facility is required to further diagnose or treat the child's mental condition, the
4297 proceedings shall be in accordance with the provisions of § 37.2-806 or §§ 16.1-341 through 16.1-345,
4298 except that provisions requiring consent of the child's parent or guardian for treatment shall not apply in
4299 such cases. No child transferred to a state hospital pursuant to this section or the provisions of Title 37.2
4300 shall, however, be held or cared for in any maximum security unit where adults determined to be
4301 criminally insane reside and such child shall be kept separate and apart from such adults.