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SENATE BILL NO. 178

Offered January 10, 2018

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A BILL to amend and reenact §§ 63.2-100 and 63.2-1715 of the Code of Virginia and to amend the Code of Virginia by adding in Title 20 a chapter numbered 10, consisting of sections numbered 20-166 and 20-167, relating to delegation of parental or legal custodial powers; child-placing agency.

Patron—Stanley

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-100 and 63.2-1715 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 20 a chapter numbered 10, consisting of sections numbered 20-166 and 20-167, as follows:

CHAPTER 10.

POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAL POWERS.

§ 20-166. Power of attorney to delegate parental or legal custodial powers.

A. A parent or legal custodian of a child, by a properly executed power of attorney pursuant to § 20-167, may delegate to another person, for a period not to exceed one year, any of the powers regarding the custody, care, and property of the child except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

Such parent or legal custodian who is a service member may delegate such powers for a period longer than one year while on active duty service if such active duty is longer than one year, but such period shall not exceed the term of active duty service plus 30 days. For the purposes of this section, "service member" means (i) a member of the Armed Forces of the United States, (ii) a member of the Armed Forces Reserves, (iii) a member of the National Guard, (iv) a member of the commissioned corps of the National Oceanic and Atmospheric Administration, (v) a member of the commissioned corps of the U.S. Public Health Services, or (vi) any person otherwise required to enter or serve in the active military services of the United States under a call or order of the President of the United States or to serve on state activity duty.

A delegation of powers under this section shall not operate to change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of any child under this title.

B. Any power of attorney properly executed pursuant to § 20-167 shall be signed by all persons with authority to make decisions concerning the child pursuant to Chapter 6.1 (§ 20-124.1 et seq.), the person to whom powers are delegated under the power of attorney, and a representative of a nonprofit organization organized pursuant to § 501(c)(3) of the Internal Revenue Code that assists parents and legal guardians with the process of delegating parental and legal custodial powers of their children, including assistance with identifying appropriate placements for their children and providing services and resources to support children, parents and legal guardians, and persons to whom parental or legal custodial powers are delegated pursuant to this chapter. That organization shall file notice of the arrangement authorized by the power of attorney with the local department of social services in the jurisdiction where the parents or legal guardian resides within seven days of its execution.

C. Any person who has signed the form under § 20-167 shall have the authority to revoke or withdraw the power of attorney authorized by subsection A at any time. If the delegation of authority lasts longer than one year, a new power of attorney shall be executed. Where such delegation is executed by a service member, if the delegation is longer than one year while on active duty service and exceeds the term of active duty service plus 30 days, a new power of attorney shall be executed.

D. The attorney-in-fact shall exercise parental or legal authority on a continuous basis for not less than 24 hours and without compensation for the intended duration of the power of attorney authorized by subsection A and shall not be subject to the licensing requirements of § 63.2-1701.

E. The execution of a power of attorney by a parent or legal custodian authorized by subsection A shall not constitute abandonment, abuse, or neglect as defined in § 63.2-100 unless the parent or legal custodian fails to make contact or execute a new power of attorney after the time limit has elapsed.

F. Under a delegation of powers as authorized by subsection A, the child subject to the power of

59 attorney shall not be deemed placed in foster care, in a foster home, or in an independent foster home  
60 as defined in § 63.2-100, and the parties shall not be subject to any of the licensing requirements or  
61 regulations for foster care.

62 G. Except as may be permitted by the federal No Child Left Behind Act, 20 U.S.C. §§ 6301 et seq.  
63 and 7801 et seq., a power of attorney executed pursuant to § 20-167 shall be invalid if executed for the  
64 primary purpose of enrolling the child in a school for the sole purpose of participating in the academic  
65 or interscholastic athletics programs provided by that school or for any other unlawful purpose.  
66 Violation of this subsection shall be punishable in accordance with the laws of the Commonwealth and  
67 may require, in addition to any other remedies, repayment by such parent of all costs incurred by the  
68 school as a result of the violation.

69 **§ 20-167. Statutory form for power of attorney to delegate parental or legal custodial powers.**

70 A. A power of attorney to delegate parental or legal authority executed pursuant to this chapter shall  
71 be substantially as follows:

72 **POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAL POWERS**

73 1. I/We certify that I/we am/are the parent or legal custodian of:

74 Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

75 Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

76 Full name of minor child: \_\_\_\_\_ Date of birth: \_\_\_\_\_

77 2. I/We designate \_\_\_\_\_ (insert full name, address, and phone number of  
78 designated attorney-in-fact) as the attorney-in-fact of each child listed above.

79 3. I/We delegate to the attorney-in-fact all of my/our power and authority regarding the care,  
80 custody, and property of each minor child named above, including the right to enroll the child in  
81 school, the right to inspect and obtain copies of education records and other records concerning the  
82 child, the right to attend school activities and other functions concerning the child, and the right to give  
83 or withhold any consent or waiver with respect to school activities, medical and dental treatment, and  
84 any other activity, function, or treatment that may concern the child. This delegation shall not include  
85 the power or authority to consent to marriage or adoption of the child, the performance or inducement  
86 of an abortion on or for the child, or the termination of parental rights to the child. I/We understand  
87 that this power of attorney shall not operate to change or modify any parental or legal rights,  
88 obligations, or authority established by an existing court order or deprive a parent or legal custodian of  
89 any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of  
90 any child under Title 20 of the Code of Virginia, and I/we understand that I/we shall continue to be  
91 bound by any obligations in such order. By my/our signature below, I/we hereby certify that I/we am/are  
92 not executing this power of attorney for any unlawful purpose or for the primary purpose of enrolling  
93 my/our child/children in a school for the sole purpose of participating in the academic or interscholastic  
94 athletics programs provided by that school.

95 OR

96 3. I/We delegate to the attorney-in-fact the following specific powers and responsibilities:

97 \_\_\_\_\_  
98 \_\_\_\_\_

99 This delegation shall not include the power or authority to consent to marriage or adoption of the  
100 child, the performance or inducement of an abortion on or for the child, or the termination of parental  
101 rights to the child. I/We understand that this power of attorney shall not operate to change or modify  
102 any parental or legal rights, obligations, or authority established by an existing court order or deprive a  
103 parent or legal custodian of any parental or legal rights, obligations, or authority regarding the  
104 custody, visitation, or support of any child under Title 20 of the Code of Virginia, and I/we understand  
105 that I/we shall continue to be bound by any obligations in such order. By my/our signature below, I/we  
106 hereby certify that I/we am/are not executing this power of attorney for any unlawful purpose or for the  
107 primary purpose of enrolling my/our child/children in a school for the sole purpose of participating in  
108 the academic or interscholastic athletics programs provided by that school.

109 4. This power of attorney is effective for a period not to exceed one year, beginning \_\_\_\_\_  
110 (insert date) and ending \_\_\_\_\_ (insert date). I/We reserve the right to revoke this authority at any  
111 time.

112 OR

113 4. I/We am/are a service member, as defined by § 20-166 of the Code of Virginia, and am/are on, or  
114 am/are scheduled to be on, active duty for a period that is set to last longer than one year. This power  
115 of attorney is effective for a period not to exceed the period of active duty plus 30 days, beginning  
116 \_\_\_\_\_ (insert date) and ending \_\_\_\_\_ (insert date). I/We reserve the right to revoke this  
117 authority at any time.

118 Signature(s) of parent/legal custodian: \_\_\_\_\_ Date: \_\_\_\_\_

119 5. I hereby accept my designation as attorney-in-fact for the minor child/children specified in this  
120 power of attorney and agree to act at all times in the best interests of the child/children specified herein

121 and within the limits of the powers delegated to me. I understand that this power of attorney does not  
122 change or modify any parental or legal rights, obligations, or authority established by an existing court  
123 order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority  
124 regarding the custody, visitation, or support of the child/children specified herein. By my signature  
125 below, I affirm that I have received notice of any existing court order regarding the custody, visitation,  
126 or support of the child/children and agree to honor the rights of a parent or legal custodian of the  
127 child/children as specified in such order.

128 Signature of attorney-in-fact: \_\_\_\_\_ Date: \_\_\_\_\_

129 6. I, \_\_\_\_\_ (insert name of representative of qualified nonprofit), on behalf of  
130 \_\_\_\_\_ (insert qualified nonprofit), hereby approve the designation of the aforementioned  
131 attorney-in-fact for the minor child/children specified in this power of attorney and accept responsibility  
132 for the supervision of the placement during the time the child/children is/are in the care of the  
133 attorney-in-fact.

134 Signature of representative of qualified nonprofit: \_\_\_\_\_ Date: \_\_\_\_\_

135 B. A power of attorney executed under this chapter is legally sufficient if the wording of the form  
136 complies substantially with subsection A, the form is properly completed, and the signatures of the  
137 parties are acknowledged or verified before a notary public.

138 **§ 63.2-100. Definitions.**

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

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

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

149 2. Whose parents or other person responsible for his care neglects or refuses to provide care  
150 necessary for his health. However, no child who in good faith is under treatment solely by spiritual  
151 means through prayer in accordance with the tenets and practices of a recognized church or religious  
152 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a  
153 decision by parents who have legal authority for the child or, in the absence of parents with legal  
154 authority for the child, any person with legal authority for the child, who refuses a particular medical  
155 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary  
156 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;  
157 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the  
158 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have  
159 considered alternative treatment options; and (iv) the parents or other person with legal authority and the  
160 child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision  
161 shall be construed to limit the provisions of § 16.1-278.4;

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

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

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

168 6. Whose parents or other person responsible for his care creates a substantial risk of physical or  
169 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as  
170 defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the  
171 parent or other person responsible for his care knows has been convicted of an offense against a minor  
172 for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

248 "Child day center" means a child day program offered to (i) two or more children under the age of  
249 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or  
250 more children at any location.

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

254 "Child-placing agency" means any person who places children in foster homes, adoptive homes or  
255 independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster  
256 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, *other than a private,*  
257 *nonprofit organization that does not accept public funds and that assists parents with the process of*  
258 *delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et*  
259 *seq.) of Title 20, including assistance with identifying appropriate placements for their children, or that*  
260 *provides services and resources to support children, parents and legal guardians, and persons to whom*  
261 *parental or legal custodial powers are delegated pursuant to Chapter 10 of Title 20. Officers,*  
262 *employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as*  
263 *such, who serve as or maintain a child-placing agency, shall not be required to be licensed.*

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

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

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

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

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

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

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

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

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

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

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

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

298 "Family day home" means a child day program offered in the residence of the provider or the home  
299 of any of the children in care for one through 12 children under the age of 13, exclusive of the  
300 provider's own children and any children who reside in the home, when at least one child receives care  
301 for compensation. The provider of a licensed or registered family day home shall disclose to the parents  
302 or guardians of children in their care the percentage of time per week that persons other than the  
303 provider will care for the children. Family day homes serving five through 12 children, exclusive of the  
304 provider's own children and any children who reside in the home, shall be licensed. However, no family

305 day home shall care for more than four children under the age of two, including the provider's own  
306 children and any children who reside in the home, unless the family day home is licensed or voluntarily  
307 registered. However, a family day home where the children in care are all related to the provider by  
308 blood or marriage shall not be required to be licensed.

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

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

320 "Foster home" means the place of residence of any natural person in which any child, other than a  
321 child by birth or adoption of such person *or a child who is the subject of a power of attorney to  
322 delegate parental or legal custodial powers by his parents or legal custodian to the natural person who  
323 has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and  
324 who exercises legal authority over the child on a continuous basis for at least 24 hours without  
325 compensation*, resides as a member of the household.

326 "General relief" means money payments and other forms of relief made to those persons mentioned  
327 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with §  
328 63.2-401.

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

337 "Independent living" means a planned program of services designed to assist a child age 16 and over  
338 and persons who are former foster care children between the ages of 18 and 21 in transitioning to  
339 self-sufficiency.

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

344 "Independent living services" means services and activities provided to a child in foster care 14 years  
345 of age or older who was committed or entrusted to a local board of social services, child welfare  
346 agency, or private child-placing agency. "Independent living services" may also mean services and  
347 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached  
348 the age of 21 years or (ii) is at least 18 years of age but who has not yet reached 21 years of age and  
349 who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of  
350 a local board of social services. Such services shall include counseling, education, housing, employment,  
351 and money management skills development, access to essential documents, and other appropriate  
352 services to help children or persons prepare for self-sufficiency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

412 **§ 63.2-1715. Exemptions from licensure.**

413 A. The following child day programs shall not be required to be licensed:

414 1. A child day center that has obtained an exemption pursuant to § 63.2-1716.

415 2. A program where, by written policy given to and signed by a parent or guardian, school-aged  
416 children are free to enter and leave the premises without permission or supervision, regardless of (i)  
417 such program's location or the number of days per week of its operation; (ii) the provision of  
418 transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks,  
419 homework, or other activities. A program that would qualify for this exemption except that it assumes  
420 responsibility for the supervision, protection and well-being of several children with disabilities who are  
421 mainstreamed shall not be subject to licensure.

422 3. A program of instructional experience in a single focus, such as, but not limited to, computer  
423 science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if  
424 no child is allowed to attend for more than 25 days in any three-month period commencing with  
425 enrollment. This exemption does not apply if children merely change their enrollment to a different  
426 focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a  
427 three-month period.

428 4. Programs of instructional or recreational activities wherein no child under age six attends for more  
429 than six hours weekly with no class or activity period to exceed one and one-half hours, and no child  
430 six years of age or above attends for more than six hours weekly when school is in session or 12 hours  
431 weekly when school is not in session. Competition, performances and exhibitions related to the  
432 instructional or recreational activity shall be excluded when determining the hours of program operation.

433 5. A program that operates no more than a total of 20 program days in the course of a calendar year  
434 provided that programs serving children under age six operate no more than two consecutive weeks  
435 without a break of at least a week.

436 6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the  
437 Individuals with Disabilities Education Act, as amended, and programs of school-sponsored  
438 extracurricular activities that are focused on single interests such as, but not limited to, music, sports,  
439 drama, civic service, or foreign language.

440 7. Instructional programs offered by public schools that serve preschool-age children or that satisfy  
441 compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and  
442 programs of school-sponsored extracurricular activities that are focused on single interests such as, but  
443 not limited to, music, sports, drama, civic service, or foreign language.

444 8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities  
445 Education Act, as amended, wherein no child attends for more than a total of six hours per week.

446 9. Practice or competition in organized competitive sports leagues.

447 10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar  
448 Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who  
449 are on site to attend religious worship or instructional services.

450 11. Child-minding services that are not available for more than three hours per day for any individual  
451 child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an  
452 on-duty employee, except for part-time employees working less than two hours per day, (ii) can be  
453 contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is  
454 receiving or providing services or participating in activities offered by the establishment.

455 12. A certified preschool or nursery school program operated by a private school that is accredited  
456 by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and  
457 complies with the provisions of § 63.2-1717.

458 13. A program of recreational activities offered by local governments, staffed by local government  
459 employees, and attended by school-age children. Such programs shall be subject to safety and  
460 supervisory standards established by local governments.

461 14. A program of instructional or athletic experience operated during the summer months by, and as  
462 an extension of, an accredited private elementary, middle, or high school program as set forth in  
463 § 22.1-19 and administered by the Virginia Council for Private Education.

464 B. Family day homes that are members of a licensed family day system shall not be required to  
465 obtain a license from the Commissioner.

466 C. *No private nonprofit organization that does not accept public funds and that assists parents or*  
467 *legal custodians with the process of delegating parental or custodial powers of their children pursuant*  
468 *to Chapter 10 (§ 20-166 et seq.) of Title 20, including assistance with identifying appropriate*  
469 *placements for their children, or provides services and resources to support children, parents and legal*  
470 *guardians, and persons to whom parental or legal custodial power are delegated pursuant to Chapter*  
471 *10 of Title 20 shall be required to obtain a license as a child-placing agency from the Commissioner.*  
472 *No person to whom parental and legal custodial powers have been delegated pursuant to Chapter 10 of*  
473 *Title 20 shall be required to obtain a license to operate an independent foster home or approval as a*  
474 *foster parent from the Commissioner.*

475 D. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting  
476 within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be  
477 required to be licensed.