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SENATE BILL NO. 1101

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 63.2-100, 63.2-213, 63.2-224, 63.2-608, 63.2-702, 63.2-1205, 63.2-1206, 63.2-1715, 63.2-1717, 63.2-1719, 63.2-1724, 63.2-1738, 63.2-1802, 63.2-1803, and 63.2-1902 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 63.2-1602.1, and by adding in Chapter 13 of Title 63.2 a section numbered 63.2-1304, and to repeal § 20-87.1 of the Code of Virginia, relating to public assistance and social services.

Patron—Edwards

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-100, 63.2-213, 63.2-224, 63.2-608, 63.2-702, 63.2-1205, 63.2-1206, 63.2-1715, 63.2-1717, 63.2-1719, 63.2-1724, 63.2-1738, 63.2-1802, 63.2-1803, and 63.2-1902 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 63.2-1602.1, and by adding in Chapter 13 of Title 63.2 a section numbered 63.2-1304 as follows:

§ 63.2-100. Definitions.

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

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

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

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

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

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

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

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

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

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

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

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

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

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

"Adult protective services" means services provided by the local department that are necessary to

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59 protect an adult from abuse, neglect or exploitation.

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

63 "Assisted living facility" means any congregate residential setting that provides or coordinates
64 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
65 the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for
66 in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board
67 of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but
68 including any portion of such facility not so licensed; (ii) the home or residence of an individual who
69 cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a
70 facility serving infirm or disabled persons between the ages of eighteen and twenty-one, or twenty-two if
71 enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is
72 licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of
73 this title, but including any portion of the facility not so licensed; and (iv) any housing project for
74 persons sixty-two years of age or older or the disabled that provides no more than basic coordination of
75 care services and is funded by the U.S. Department of Housing and Urban Development, ~~including but~~
76 ~~not limited to, U.S. Department of Housing and Urban Development Sections 8, 202, 221(d) (3), 221(d)~~
77 ~~(4), 231, 236, or 811 housing,~~ by the U.S. Department of Agriculture, or by the Virginia Housing
78 Development Authority. Included in this definition are any two or more places, establishments or
79 institutions owned or operated by a single entity and providing maintenance or care to a combined total
80 of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general
81 supervision and oversight of the physical and mental well-being of an aged, infirm or disabled
82 individual.

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

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

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

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

90 "Child" means any natural person under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

"Department" means the State Department of Social Services.

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

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

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

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

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

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

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

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

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

"Independent living" means a program of services and activities for children in foster care who are sixteen years of age or older, and persons who are former foster care children between the ages of eighteen and twenty-one, that prepares them for the successful transition from foster care to self sufficiency.

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

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

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

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

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

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

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

192 "Merit system plan" means those regulations adopted by the Board in the development and operation
193 of a system of personnel administration meeting requirements of the federal ~~Department of Health and~~
194 ~~Human Services~~*Office of Personnel Management*.

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

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

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

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

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

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

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

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

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

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

229 § 63.2-213. Powers, duties, titles and functions of agents and employees.

230 The functions, duties, powers and titles of the agents and employees provided for in §
231 ~~63.2-213~~ 63.2-212, and their salaries and remuneration, not in excess of the amount provided therefor by
232 law, shall be fixed by the Commissioner, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of
233 Title 2.2.

234 § 63.2-224. Members of Council; terms; vacancies; chairman.

235 A. The Council shall consist of no more than twenty-five members, to be appointed by the Governor
236 as follows:

237 Three citizens at large, one of whom is a consumer of human services and one of whom has a
238 disability; two representatives from business or industry or both; two representatives of local government
239 representing one rural and one urban locality; one representative of United Way of Virginia; one
240 representative from the Virginia Cooperative Extension Services; one representative from The Library of
241 Virginia; one representative of the armed services residing in Virginia; one representative from the
242 information and referral regional providers; one labor representative; one representative from each of the
243 six information and referral centers' regional boards and one representative from the Virginia Association

of Community Action Agencies Council Against Poverty.

B. Members of the Council shall be appointed for four-year terms except that persons appointed to fill vacancies shall be appointed for the unexpired term.

C. Persons appointed to the Council shall be knowledgeable about the development and implementation of information and referral programs and the services to be provided by the program.

D. The chairman of the Council shall be appointed by the Governor from its membership.

§ 63.2-608. Virginia Initiative for Employment Not Welfare (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare (VIEW) to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills and prior training of a participant.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities while receiving TANF, earned-income disregards to reduce disincentives to work, and a limit on TANF financial assistance.

VIEW shall require all able-bodied recipients of TANF who do not meet an exemption and who are not employed within ninety days of receipt of TANF benefits to participate in a work activity. VIEW shall require eligible TANF recipients to participate in unsubsidized, partially subsidized or fully subsidized employment and enter into an agreement of personal responsibility. If recipients cannot be placed in an unsubsidized or subsidized job, they shall be required to participate in a six-month community work experience placement. Upon completion of the initial six-month work requirement, participants may receive education and training in conjunction with continued work experience to make them more employable.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following employment categories in priority order not less than ninety days after TANF eligibility determination:

1. Unsubsidized private-sector employment;

2. Subsidized employment, as follows:

a. The Department shall conduct a program in accordance with this section and any applicable federal waivers that shall be known as the Full Employment Program (FEP). FEP replaces TANF and food stamp benefits with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for both TANF and food stamp benefits shall participate in FEP unless exempted by this chapter. FEP shall assign participants to and subsidize wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the workforce.

b. The Department shall administer a wage fund that shall be used exclusively to meet the necessary expenditures of FEP. Funds to operate FEP, drawn from funds appropriated for expenditure by or apportioned to Virginia for operation of the TANF and food stamp programs, shall be deposited in this pool. All payments by the Department to participating employers for FEP participants shall be made from the pool.

c. Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. For each participant hour worked, the Department shall reimburse the employer the amount of the federal or state minimum wage and costs up to the available amount of the participant's combined value of TANF and food stamps. At no point shall a participant's spendable income received from wages and tax credits be less than the value of TANF and food stamps received prior to the work placement.

d. Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers shall ensure that jobs made available to FEP participants are in conformity with § 3304 (a) (5) of the Federal Unemployment Tax Act. FEP participants cannot be used to displace regular workers.

e. FEP employers shall:

(i) Endeavor to make FEP placements positive learning and training experiences;

(ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;

(iii) Pay wages to participants at the same rate that they are paid to other employees performing the same type of work and having similar experience and employment tenure;

305 (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the
306 same basis that they are provided to other employees performing the same type of work and having
307 similar employment experience and tenure;

308 (v) Maintain health, safety and working conditions at or above levels generally acceptable in the
309 industry and no less than those in which other employees perform the same type of work;

310 (vi) Provide workers' compensation coverage for participants;

311 (vii) Encourage volunteer mentors from among their other employees to assist participants in
312 becoming oriented to work and the workplace; and

313 (viii) Sign an agreement with the local department outlining the employer requirements to participate
314 in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements in
315 the event the employer violates FEP rules.

316 f. As a condition of FEP participation, employers shall be prohibited from discriminating against any
317 person, including program participants, on the basis of race, color, sex, national origin, religion, age, or
318 disability;

319 3. Part-time or temporary employment; or

320 4. Community work experience, as follows:

321 a. The Department and local departments shall work with other state, regional and local agencies and
322 governments in developing job placements that serve a useful public purpose as provided in § 482 (f) of
323 the Social Security Act, as amended. Placements shall be selected to provide skills and serve a public
324 function. VIEW participants shall not displace regular workers.

325 b. The number of hours per week for participants shall be determined by combining the total dollar
326 amount of TANF and food stamps and dividing by the minimum wage with a maximum of a work
327 week of thirty-two hours, of which up to eight hours of employment-related education and training may
328 substitute for work experience employment.

329 E. Notwithstanding the provisions of subsections A and D, if a local department determines that a
330 VIEW participant is in need of job skills and would benefit from immediate job skills training, it may,
331 with the participant's consent, exempt the participant from job search requirements and place the
332 participant in a career and technical education program targeted to skills required for particular
333 employment opportunities in the locality if the participant meets two or more of the criteria specified in
334 this subsection. Eligible participants include those with problems related to obtaining and retaining
335 employment, such as participants (i) with less than a high school education, (ii) whose reading or math
336 skills are at or below the eighth grade level, (iii) who have not retained a job for a period of at least six
337 months during the prior two years, or (iv) who are in a treatment program for a substance abuse
338 problem or are receiving services through a family violence treatment program. The career and technical
339 education program shall be for a minimum of thirty hours per week. Prior to placing the VIEW
340 participant in the career and technical program, the local department shall have a memorandum of
341 understanding with an employer that such participant will be placed, if qualified and the employer has
342 an opening, in a job with the employer at the conclusion of the program. The VIEW participant shall be
343 required to work an average of eight hours per week during the ~~vocational educational~~ *career and*
344 *technical education* program in part-time or temporary employment or community work experience. The
345 VIEW participant may continue in the career and technical education program for as long as the local
346 department determines he is progressing satisfactorily and to the extent permitted by the Personal
347 Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended.

348 F. Notwithstanding the provisions of subsections A and D, persons eligible to participate in TANF
349 shall also be eligible to participate in approved projects established through the Economic and
350 Employment Improvement Program for Disadvantaged Persons of Chapter 7 (§ 63.2-700 et seq.) of this
351 title.

352 G. Participants may be reevaluated after a period determined by the local department and reassigned
353 to another work component. In addition, the number of hours worked may be reduced by the local
354 department so that a participant may complete additional training or education to further his
355 employability.

356 H. Local departments shall be authorized to sanction participants up to the full amount of the TANF
357 grant and food stamps allotment for noncompliance.

358 I. VIEW participants shall not be assigned to projects that require that they travel unreasonable
359 distances from their homes or remain away from their homes overnight without their consent.

360 Any injury to a VIEW participant by accident arising out of and in the course of community work
361 experience shall be covered by the participant's existing Medicaid coverage. If a community work
362 experience participant is unable to work due to such an accident, his status shall be reviewed to
363 determine whether he is eligible for an exemption from the limitation on TANF financial assistance.

364 A community work experience participant who becomes incapacitated for thirty days or more shall
365 be eligible for TANF financial assistance for the duration of the incapacity, if otherwise eligible.

366 The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent

mechanism for community work experience participants.

§ 63.2-702. Grant Awards Committee reestablished; eligible projects; criteria for award of grants.

A. There is hereby reestablished the Economic and Employment Improvement Program for Disadvantaged Persons Grant Awards Committee, which shall be composed of nine members designated by the relevant agency heads as follows: (i) one representative of the State Board for Community Colleges who shall have expertise in grant writing and review; (ii) one representative of the Department of Education, who shall have expertise in the administration and delivery of career and technical education programs and services administered by and through the public schools, and the delivery of adult literacy and education services; (iii) one representative of the Virginia Employment Commission, who shall have expertise in the administration and evaluation of workforce training programs; (iv) one representative of the Department of Labor and Industry who shall have expertise in labor and employment law; (v) one representative of the Department who shall be knowledgeable of the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), as amended, and the Temporary Assistance for Needy Families Program; (vi) one representative of a local department who shall have expertise and experience in assisting chronically unemployed and hard-to-employ persons, designated by the Commissioner; (vii) one representative of the Department of Corrections, who shall have expertise in the education and job training programs offered to incarcerated persons, and the Department of Corrections' transition and job placement programs that are available to persons leaving the correctional system; (viii) one representative of a local workforce investment board, designated by the Commissioner of the Virginia Employment Commission; and (ix) one representative of four-year institutions of higher education whose service areas and student populations are comprised of disproportionately high percentages of disadvantaged persons, designated by the Chairman of the State Council of Higher Education.

The Commissioner shall provide written notification to the respective agency heads of the reestablishment of the Economic and Employment Improvement Program for Disadvantaged Persons Grant Awards Committee, and shall request that the respective agency head designate the appropriate persons to represent the agency on the Awards Committee.

B. Upon the appropriation of funds for this purpose and from such gifts, donations, grants, bequests, and other funds as may be received by the Department on behalf of the Economic and Employment Improvement Program, the Committee shall issue a request for proposals for grant projects designed to improve the employability of and provide assistance to disadvantaged persons through education and skills training. The Committee shall review each grant application, make grant awards in accordance with the eligibility criteria established in this section, and evaluate the effectiveness of the educational and skills training services delivered by the funded projects. The Committee shall report the results of its evaluation annually, on or before July 1, to the governing boards of agencies represented on the Committee, to the Governor, and to the General Assembly.

C. On and after July 1, 2000, the Economic and Employment Improvement Program shall consist of no more than ten grant projects; ~~including projects awarded grants by the Governor's Employment and Training Department and in existence on July 1, 1999;~~ located in regions throughout the Commonwealth to provide equal geographical distribution of such projects. Priority for awarding such grants shall be given to projects designed to serve persons who are (i) historically underrepresented in Virginia institutions of higher education, and in management and at administrative levels in the business community; (ii) residing in counties, cities, and towns with high local stress indicators and in economically depressed regions of the Commonwealth; (iii) disproportionately represented in the workforce in minimum wage jobs and occupations requiring minimum education, training, and skills; (iv) ineligible to continue to receive public assistance under state and federal laws; (v) eligible to participate in the Temporary Assistance for Needy Families Program; (vi) returning to the community from state and federal correctional institutions; (vii) chronically unemployed or hard-to-employ; (viii) displaced by technological advances in industry; or (ix) subject to any combination thereof. Education and job training programs shall be designed to enable individuals to move from minimum wage jobs to higher-salaried occupations and employment opportunities and to pursue careers and professions. Grants for all projects shall be awarded on a competitive basis to applicants responding to requests for proposals.

D. Eligible projects shall (i) satisfy the criteria for receiving awards, pursuant to subsection C of this section; (ii) provide educational programs, job training opportunities, or other support services to improve the employability of persons ineligible to continue to receive public assistance, or who are eligible to participate in the programs included in the Temporary Assistance for Needy Families Program, or populations experiencing high rates of unemployment or underemployment; (iii) provide training and education reflective of current and projected workforce needs in the Commonwealth that will enable persons to move from minimum wage jobs to higher-salaried occupations, careers, and professions; (iv) provide coordinated delivery of services, such as community-business partnerships and

community outreach programs through the schools or departments of business at two-year and four-year public and private institutions of higher education; (v) include a component to evaluate the effectiveness of the delivery of educational and job skills training services; and (vi) encourage mentoring through partnerships between institutions of higher education, corporations, and small businesses. Grant recipients may work collaboratively, upon request, to provide approved service delivery. Participants in the Economic and Employment Improvement Program that are not participating in the Virginia Initiative for Employment Not Welfare shall be required to work a minimum of eight hours per week in paid employment during the Economic and Employment Improvement Program.

§ 63.2-1205. Best interests of the child; standards for determining.

In determining whether the valid consent of any person whose consent is required is withheld contrary to the best interests of the child, or is unobtainable, the *circuit court or juvenile and domestic relations district court, as the case may be*, shall consider whether the failure to grant the petition pending before it would be detrimental to the child. In determining whether the failure to grant the petition would be detrimental to the child, the *circuit court or juvenile and domestic relations district court, as the case may be*, shall consider all relevant factors, including the birth parent(s)' efforts to obtain or maintain legal and physical custody of the child; whether the birth parent(s)' efforts to assert parental rights were thwarted by other people; the birth parent(s)' ability to care for the child; the age of the child; the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children; the duration and suitability of the child's present custodial environment; and the effect of a change of physical custody on the child.

§ 63.2-1206. No parental presumption after revocation period expires.

If, after the expiration of the appropriate revocation period provided for in § 63.2-1223 or § 63.2-1234, a birth parent or an alleged birth parent attempts to obtain or regain custody of or attempts to exercise parental rights to a child who has been placed for adoption, there shall be no parental presumption in favor of any party. Upon the motion of any such birth parent or alleged birth parent, or upon the motion of any person or agency with whom the child has been placed, the circuit or juvenile and domestic relations district court, *as the case may be*, shall determine (i) whether the birth parent or alleged birth parent is a person whose consent to the adoption is required and, if so, then (ii) pursuant to § 63.2-1205, whether, in the best interest of the child, the consent of the person whose consent is required is being withheld contrary to the best interest of the child or is unobtainable.

§ 63.2 -1304. *Appeal to Commissioner regarding adoption assistance.*

Any applicant for or recipient of adoption assistance aggrieved by any decision of a local board or licensed child-placing agency in granting, denying, changing or discontinuing adoption assistance, may, within 30 days after receiving written notice of such decision, appeal therefrom to the Commissioner. Any applicant or recipient aggrieved by the failure of the local board or licensed child-placing agency to make a decision within a reasonable time may ask for review by the Commissioner. The Commissioner may delegate the duty and authority to duly qualified hearing officers to consider and make determinations on any appeal or review. The Commissioner shall provide an opportunity for a hearing, reasonable notice of which shall be given in writing to the applicant or recipient and to the proper local board in such manner and form as the Commissioner may prescribe. The Commissioner may make or cause to be made an investigation of the facts. The Commissioner shall give fair and impartial consideration to the testimony of witnesses, or other evidence produced at the hearing, reports of investigation of the local board and local director or licensed child-placing agency or of investigations made or caused to be made by the Commissioner, or any facts that the Commissioner may deem proper to enable him to decide fairly the appeal or review. The decision of the Commissioner shall be binding and considered a final agency action for purposes of judicial review of such action pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 63.2 -1602.1. *Appeal to Commissioner regarding home-based and adult foster care services.*

Any applicant for or recipient of home-based and adult foster care services aggrieved by any decision of a local board in granting, denying, changing or discontinuing services, may, within 30 days after receiving written notice of such decision, appeal therefrom to the Commissioner. Any applicant or recipient aggrieved by the failure of the local board to make a decision within a reasonable time may ask for review by the Commissioner. The Commissioner may delegate the duty and authority to duly qualified hearing officers to consider and make determinations on any appeal or review. The Commissioner shall provide an opportunity for a hearing, reasonable notice of which shall be given in writing to the applicant or recipient and to the proper local board in such manner and form as the Commissioner may prescribe. The Commissioner may make or cause to be made an investigation of the facts. The Commissioner shall give fair and impartial consideration to the testimony of witnesses, or other evidence produced at the hearing, reports of investigation of the local board and local director or of investigations made or caused to be made by the Commissioner, or any facts which the Commissioner may deem proper to enable him to decide fairly the appeal or review. The decision of the Commissioner shall be binding and considered a final agency action for purposes of judicial review of such action

pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 63.2-1715. Exemptions from licensure.

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

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

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

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

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

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

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

7. Education and care programs provided by public schools that are not exempt pursuant to subdivision A. 6. shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the Commissioner.

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

9. Practice or competition in organized competitive sports leagues.

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

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

12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; Standards for the American Montessori Society Accreditation; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

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

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

§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.

A. A preschool or nursery school program operated by a private school accredited by a statewide accrediting organization recognized by the Board of Education or a private school or preschool that offers to preschool-aged children a program accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools

551 International; the American Association of Christian Schools; the National Early Childhood Program
552 Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and
553 Programs; the International Academy for Private Education; ~~Standards for the American Montessori~~
554 ~~Society Accreditation~~; the International Accreditation and Certification of Childhood Educators,
555 Programs, and Trainers; or the National Accreditation Commission and is recognized by the Board of
556 Education, shall be exempt from licensure under this subtitle if it complies with the provisions of this
557 section and meets the requirements of subsection B, C or D.

558 B. A school described in subsection A shall meet the following conditions in order to be exempt
559 under this subsection:

560 1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory
561 school attendance laws, and children below the age of compulsory school attendance also participate in
562 such instructional programs;

563 2. The instructional programs for children of and below the age of eligibility for school attendance
564 share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction,
565 and (iv) professional training and individual teacher certification standards, all of which are required by
566 a state-recognized accrediting organization;

567 3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of
568 three-year-old to six-year-old children and the number of pupils in the preschool program does not
569 exceed fifteen pupils for each instructional adult;

570 4. The instructional program contemplates a three-to-four-year learning cycle under a common
571 pedagogy; and

572 5. Children below the age of eligibility for kindergarten attendance do not attend the instructional
573 program for more than four hours per day.

574 C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment
575 ratio at any one time during the current school year of five children age five or above to one
576 four-year-old child as long as no child in attendance is under age four and the number of pupils in the
577 preschool program does not exceed twelve pupils for each instructional adult.

578 D. A private school or preschool described in subsection A shall meet the following conditions in
579 order to be exempt under this subsection:

580 1. The school offers instructional classes and has been in operation since January 1984.

581 2. The school does not hold itself out as a child care center, child day center, or child day program.

582 3. Children enrolled in the school are at least three years of age and do not attend more than (i)
583 three hours per day and (ii) five days per week.

584 4. The enrolled children attend only one program offered by the school per day.

585 5. The school maintains a certificate or permit issued pursuant to a local government ordinance that
586 addresses health, safety and welfare of the children, such as but not limited to space requirements, and
587 requires annual inspections.

588 E. The school shall file with the Commissioner, prior to the beginning of the school year or calendar
589 year, as the case may be, and thereafter, annually, a statement which includes the following:

590 1. Intent to operate a certified preschool program;

591 2. Documentary evidence that the school has been accredited as provided in subsection A;

592 3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having
593 charge of a child enrolled in the school's preschool program the fact of the program's exemption from
594 licensure;

595 4. Documentary evidence that the physical facility in which the preschool program will be conducted
596 has been inspected (i) before initial certification by the local building official and (ii) within the
597 twelve-month period prior to initial certification and at least annually thereafter by the local health
598 department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an
599 inspection report which documents that the facility is in compliance with applicable laws and regulations
600 pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire
601 Prevention Code or the Uniform Statewide Building Code;

602 5. Documentation that the school has disclosed the following in writing to the parents, guardians, or
603 persons having charge of a child enrolled in the school's preschool program, and in a written statement
604 available to the general public: (i) the school facility is in compliance with applicable laws and
605 regulations pertaining to food services, health and sanitation, water supply, building codes, and the
606 Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's
607 maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff
608 health requirements, and (iv) a description of the school's public liability insurance, if any;

609 6. Qualifications of school personnel who work in the preschool program; and

610 7. Documentary evidence that the private school requires all employees of the preschool and other
611 school employees who have contact with the children enrolled in the preschool program to obtain a
612 criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or

continued employment. The school shall not hire or continue employment of any such person who has an offense specified in § 63.2-1719.

All accredited private schools seeking certification of preschool programs shall file such information on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of accredited private schools which comply with the provisions of subsection A.

F. A preschool program of a private school that has not been accredited as provided in subsection A, or which has not provided documentation to the Commissioner that it has initiated the accreditation process, shall be subject to licensure.

The Commissioner shall issue a provisional certificate to a private school which provides documentation to the Commissioner that it has initiated the accreditation process. The provisional certificate shall permit the school to operate its preschool program during the accreditation process period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A provisional certificate may be renewed up to an additional year if the accrediting organization provides a statement indicating it has visited the school within the previous six months and the school has made sufficient progress. Such programs shall not be subject to licensure during the provisional certification period.

G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner shall revoke the provisional certification and the program shall thereafter be subject to licensure.

H. If the preschool program of a private school which is accredited as provided in subsection A fails to file the statement and the required documentary evidence, the Commissioner shall notify the school of its noncompliance and may thereafter take such action as he determines appropriate, including notice that the program is required to be licensed.

I. The revocation or denial of the certification of a preschool program shall be subject to appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a final agency decision shall be in accordance with the provisions of the Administrative Process Act.

J. Any person who has reason to believe that a private school falling within the provisions of this section is in noncompliance with any applicable requirement of this section may report the same to the Department, the local department, the local health department, or the local fire marshal, each of which may inspect the school for noncompliance, give reasonable notice to the school of the nature of its noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

K. Upon receipt of a complaint concerning a certified preschool program of an accredited private school, or of a private school to which provisional certification has been issued, if for good cause shown there is reason to suspect that the school is in noncompliance with any provision of this section or the health or safety of the children attending the preschool program is in danger, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary of the services, personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable opportunity to inspect the school's program, records, and facility, and to interview the employees and any child or parent or guardian of a child who is or has been enrolled in the preschool program. If, upon completion of the investigation, it is determined that the school is in noncompliance with the provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of its noncompliance and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

L. Failure of a private school to comply with the provisions of this section, or a finding that the health and safety of the children attending the preschool program are in clear and substantial danger upon the completion of an investigation, shall be grounds for revocation of the certification issued pursuant to this section.

M. If a private school operates a child day program outside the scope of its instructional classes during the school year or operates a child day program during the summer, the child day program shall be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of a private school from obtaining a license pursuant to this subtitle.

§ 63.2-1719. Definitions.

As used in this subtitle:

"Barrier crime" means a conviction of murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, ~~assault~~ *assaults* and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, ~~extortion by threat as set out in § 18.2-59~~ *threats of death or bodily injury as set out in § 18.2-60*, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as

set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, "barrier crime" shall also include convictions of burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 and any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an equivalent offense in another state.

"Offense" means a barrier crime and, in the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, (i) a conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction and (ii) a founded complaint of child abuse or neglect within or outside the Commonwealth. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

§ 63.2-1724. Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within thirty days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389 and shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer *or any other person who is expected to be alone with one or more children in the child day center* to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending the child day center whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children which includes the parent-volunteer's own child, in a program which operates no more than four hours per day, where the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

§ 63.2-1738. Program leaders and child-care supervisors at licensed child day centers; approved credential.

Program leaders and child-care supervisors employed by child day centers may possess an approved credential. For purposes of this section:

"Approved credential" means a competency-based credential awarded to individuals who work with children ages five and under in either a teaching, supervisory or administrative capacity and that is specifically awarded or administered by the National Association for the Education of Young Children; the National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; *the* American Montessori Society; the International

Accreditation and Certification of Childhood Educators, Programs, and Trainers; the National Accreditation Commission; or the Virginia Community College System or other institution of higher learning; or its equivalent as determined by the Department.

"Program leader" or "child-care supervisor" means an individual designated to be responsible for the direct supervision of children and for the implementation of the activities and services for a group of children in a licensed child day center.

§ 63.2-1802. Safe, secure environments for residents with serious cognitive impairments.

Assisted living facilities may provide safe, secure environments for residents with serious cognitive impairments due to a primary *psychiatric* diagnosis of dementia if they comply with the Board's regulations governing such placement. The Board's regulations shall define (i) serious cognitive impairment, which shall include, but not be limited to, an assessment by a clinical psychologist licensed to practice in the Commonwealth or by a physician and (ii) safe, secure environment. Prior to placing a resident with a serious cognitive impairment due to a primary *psychiatric* diagnosis of dementia in a safe, secure environment, an assisted living facility shall obtain the written approval of one of the following persons, in the specified order of priority: (a) the resident, if capable of making an informed decision; (b) a guardian or legal representative for the resident; however, such an appointment shall not be required in order that written approval may be obtained; (c) a relative authorized pursuant to the Board's regulations to act as the resident's representative; or (d) an independent physician who is skilled and knowledgeable in the diagnosis and treatment of dementia, if a guardian, legal representative or relative is unavailable. Such written approval shall be retained in the resident's file.

§ 63.2-1803. Staffing of assisted living facilities.

A. An administrator is any person meeting the qualifications for administrator of an assisted living facility, pursuant to regulations adopted by the Board. Any person meeting the qualifications for a licensed nursing home administrator under § 54.1-3103 shall be deemed qualified to (i) serve as an administrator of an assisted living facility and or (ii) serve as the administrator of both an assisted living facility and a licensed nursing home, provided the assisted living facility and licensed nursing home are part of the same building.

B. The assisted living facility shall have adequate and sufficient staff to provide services to attain and maintain (i) the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individual plans of care and (ii) the physical safety of the residents on the premises. Upon admission and upon request, the assisted living facility shall provide in writing a description of the types of staff working in the facility and the services provided, including the hours such services are available.

§ 63.2-1902. Central unit for information and administration; request and receipt of information from other entities and agencies; disclosure of such information.

The Department is authorized and directed to establish a central unit within the Department to administer the Title IV, D State Plan according to 45 C.F.R. 302.12. The central unit shall have the statewide jurisdiction and authority to:

1. Establish a registry for the receipt of information;
2. Answer interstate inquiries concerning noncustodial parents;
3. Coordinate and supervise departmental activities in relation to noncustodial parents to ensure effective cooperation with law-enforcement agencies; and
4. Contract and enter into cooperative agreements with individuals and agencies including law-enforcement agencies, in order that they may assist the Department in its responsibilities.

The central unit within the Department shall supervise offices whose primary functions are:

- a. Location of absent noncustodial parents;
- b. Assessment of the ability of noncustodial parents to pay child or child and spousal support and to obtain health care coverage for dependent children;
- c. Establishment, modification and enforcement of support obligations including health care coverage for dependent children, through administrative action;
- d. Preparation of individual cases for court action existing under all laws of the Commonwealth;
- e. Ensuring on a consistent basis that support continues in all cases in which support is assessed administratively or ordered by the court; and
- f. Provision of its services in establishing paternity and establishing and enforcing support obligations equally to public-assisted and nonpublic-assisted families.

To effectuate the purposes of this section, the Commissioner may request and shall receive from the records of state, county and local agencies within and without the Commonwealth, including but not limited to such agencies and entities responsible for vital records; tax and revenue; real and titled personal property; authorizations to engage in a business, trade, profession or occupation; employment security; motor vehicle licensing and registration; public assistance programs and corrections, all information and assistance as authorized by this chapter. Solely for the purposes of obtaining motor

797 vehicle licensing and registration information from entities within and without the Commonwealth, the
798 Division of Child Support Enforcement shall be deemed to be a criminal justice agency.

799 With respect to individuals who owe child support or are alleged in a pending paternity proceeding
800 to be a putative father, the Commissioner may request and shall receive the names and addresses of
801 such individuals and the names and addresses of such individuals' employers as appearing in the
802 customer records of public ~~utilities~~ *service corporations and companies as defined in § 56-1*, cable
803 television companies and financial institutions. All state, county and city *departments, boards, bureaus*
804 *or other entities or* agencies, officers and employees shall cooperate in the location of noncustodial
805 parents who have abandoned or deserted, or are failing to support, children and their custodial parents
806 and shall on request supply the Department with all information on hand relative to the location,
807 income, benefits and property of such noncustodial parents, notwithstanding any provision of law
808 making such information confidential. *These entities are authorized to provide such information as is*
809 *necessary for this purpose. Only information directly bearing on the identity and whereabouts of a*
810 *person owing or asserted to be owing an obligation of support shall be requested and used or*
811 *transmitted by the Commissioner. The Commissioner may make such information available only to*
812 *public officials, agencies and political subdivisions of this Commonwealth, and other states seeking to*
813 *locate parents who have deserted their children and other persons liable for support of dependents for*
814 *the purpose of enforcing their liability for support.* A civil penalty not to exceed \$1,000 may be
815 assessed by the Commissioner for a failure to respond to a request for information made in accordance
816 with this section.

817 Any public or private person, partnership, firm, corporation or association, any financial institution
818 and any political subdivision, department or other entity of the Commonwealth who in good faith and in
819 the absence of gross negligence, willful misconduct or breach of an ethical duty, provide information
820 requested pursuant to this section shall be immune from liability, civil or criminal, that might otherwise
821 result from the release of such information to the Department.

822 **2. That § 20-87.1 of the Code of Virginia is repealed.**