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VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 37.2-408.1, 63.2-100, and 63.2-1726 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-906.1, relating to statutory alignment with federal Family First Prevention Services Act; statutory alignment.

[H 2014]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 16.1-228, 16.1-281, 16.1-282, 16.1-282.1, 16.1-282.2, 37.2-408.1, 63.2-100, and 63.2-1726 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-906.1 as follows:

§ 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

72 "Child in need of supervision" means:

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

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

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

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

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

97 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed
98 a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been
99 terminated under the provisions of § 16.1-269.6.

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

103 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
104 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
105 a person against such person's family or household member. Such act includes, but is not limited to, any
106 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of
107 Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
108 apprehension of death, sexual assault, or bodily injury.

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

118 then residing in the same home with the person.

119 *"Fictive kin" means persons who are not related to a child by blood or adoption but have an*
 120 *established relationship with the child or his family.*

121 *"Foster care services" means the provision of a full range of casework, treatment and community*
 122 *services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or*
 123 *in need of services as defined in this section and his family when the child (i) has been identified as*
 124 *needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through*
 125 *an agreement between the local board of social services or a public agency designated by the*
 126 *community policy and management team and the parents or guardians where legal custody remains with*
 127 *the parents or guardians, (iii) has been committed or entrusted to a local board of social services or*
 128 *child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board*
 129 *pursuant to § 16.1-293.*

130 *"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in*
 131 *the custody of a local board or licensed child-placing agency by the local board or licensed child-placing*
 132 *agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was*
 133 *committed to the Department of Juvenile Justice immediately prior to placement by the Department of*
 134 *Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute*
 135 *parental supervision.*

136 *"Independent living services" means services and activities provided to a child in foster care 14 years*
 137 *of age or older and who has been committed or entrusted to a local board of social services, child*
 138 *welfare agency, or private child-placing agency. "Independent living services" may also mean services*
 139 *and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet*
 140 *reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his*
 141 *commitment to the Department of Juvenile Justice, was in the custody of a local board of social*
 142 *services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was*
 143 *committed to the Department of Juvenile Justice immediately prior to placement in an independent*
 144 *living arrangement. Such services shall include counseling, education, housing, employment, and money*
 145 *management skills development and access to essential documents and other appropriate services to help*
 146 *children or persons prepare for self-sufficiency.*

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

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

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

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

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

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

169 *"Qualified individual" means a trained professional or licensed clinician who is not an employee of*
 170 *the local board of social services or licensed child-placing agency that placed the child in a qualified*
 171 *residential treatment program and is not affiliated with any placement setting in which children are*
 172 *placed by such local board of social services or licensed child-placing agency.*

173 *"Qualified residential treatment program" means a program that (i) provides 24-hour residential*
 174 *placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that*
 175 *meets the clinical and other needs of children with serious emotional or behavioral disorders, including*
 176 *any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this*
 177 *definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site*
 178 *and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts*

179 *outreach with the child's family members, including efforts to maintain connections between the child*
 180 *and his siblings and other family; documents and maintains records of such outreach efforts; and*
 181 *maintains contact information for any known biological family and fictive kin of the child; (v) whenever*
 182 *appropriate and in the best interest of the child, facilitates participation by family members in the*
 183 *child's treatment program before and after discharge and documents the manner in which such*
 184 *participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at*
 185 *least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and*
 186 *accredited by an organization approved by the federal Secretary of Health and Human Services; and*
 187 *(viii) requires that any child placed in the program receive an assessment within 30 days of such*
 188 *placement by a qualified individual that (a) assesses the strengths and needs of the child using an*
 189 *age-appropriate, evidence-based, validated, and functional assessment tool approved by the*
 190 *Commissioner of Social Services; (b) identifies whether the needs of the child can be met through*
 191 *placement with a family member or in a foster home or, if not, in a placement setting authorized by 42*
 192 *U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most*
 193 *effective and appropriate level of care for the child in the least restrictive environment and be consistent*
 194 *with the short-term and long-term goals established for the child in his foster care or permanency plan;*
 195 *(c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and*
 196 *(d) is documented in a written report to be filed with the court prior to any hearing on the child's*
 197 *placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.*

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

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

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

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

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

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

211 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
 212 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

213 **§ 16.1-281. Foster care plan.**

214 A. In any case in which (i) a local board of social services places a child through an agreement with
 215 the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody
 216 of a child is given to a local board of social services or a child welfare agency, the local department of
 217 social services or child welfare agency shall prepare a foster care plan for such child, as described
 218 hereinafter. The individual family service plan developed by the family assessment and planning team
 219 pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements
 220 of this section.

221 The representatives of such department or agency shall involve the child's parent(s) in the
 222 development of the plan, except when parental rights have been terminated or the local department of
 223 social services or child welfare agency has made diligent efforts to locate the parent(s) and such
 224 parent(s) cannot be located, and any other person or persons standing in loco parentis at the time the
 225 board or child welfare agency obtained custody or the board placed the child. The representatives of
 226 such department or agency shall involve a child who is 14 years of age or older in the development of
 227 the plan and, at the option of such child, up to two members of the case planning team who are chosen
 228 by the child and who are not a foster parent of, or caseworker for, the child. A child under 14 years of
 229 age may be involved in the development of the plan if such involvement is consistent with the best
 230 interests of the child. In cases where either the parent(s) or child is not involved in the development of
 231 the plan, the department or agency shall include in the plan a full description of the reasons therefor.

232 The department or child welfare agency shall file the plan with the juvenile and domestic relations
 233 district court within 45 days following the transfer of custody or the board's placement of the child
 234 unless the court, for good cause shown, allows an extension of time, which shall not exceed an
 235 additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of
 236 § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be
 237 prepared if the child is returned to his prior family or placed in an adoptive home within 45 days
 238 following transfer of custody to the board or agency or the board's placement of the child.

239 B. The foster care plan shall describe in writing (i) the programs, care, services and other support

240 which will be offered to the child and his parents and other prior custodians; (ii) the participation and
 241 conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and
 242 other contacts which will be permitted between the child and his parents and other prior custodians, and
 243 between the child and his siblings; (iv) the nature of the placement or placements which will be
 244 provided for the child; (v) for school-age children, the school placement of the child; (vi) for children
 245 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing,
 246 employment, and money management skills development, along with specific independent living services
 247 that will be provided to the child to help him reach these goals; *and* (vii) for children 14 years and
 248 older, an explanation of the child's rights with respect to education, health, visitation, court participation,
 249 and the right to stay safe and avoid exploitation; ~~and (viii).~~ *The foster care plan shall include all*
 250 *documentation specified in 42 U.S.C. § 675(5)(l) and § 63.2-905.3. If the child in foster care is placed*
 251 *in a qualified residential treatment program as defined in § 16.1-228, the foster care plan shall also*
 252 *include the report and documentation set forth in subsection A of § 63.2-906.1. If the child in foster*
 253 *care is pregnant or is the parent of a child, the foster care plan shall also include (a) a list of the*
 254 *services and programs to be provided to or on behalf of the child to ensure parental readiness or*
 255 *capability and (b) a description of the foster care prevention strategy for any child born to the child in*
 256 *foster care.* In cases in which a foster care plan approved prior to July 1, 2011, identifies independent
 257 living as the goal for the child, and in cases involving children admitted to the United States as refugees
 258 or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall
 259 also describe the programs and services which will help the child prepare for the transition from foster
 260 care to independent living. If consistent with the child's health and safety, the plan shall be designed to
 261 support reasonable efforts which lead to the return of the child to his parents or other prior custodians
 262 within the shortest practicable time which shall be specified in the plan. The child's health and safety
 263 shall be the paramount concern of the court and the agency throughout the placement, case planning,
 264 service provision and review process. For a child 14 years of age and older, the plan shall include a
 265 signed acknowledgment by the child that the child has received a copy of the plan and that the rights
 266 contained therein have been explained to the child in an age-appropriate manner.

267 If the department or child welfare agency concludes that it is not reasonably likely that the child can
 268 be returned to his prior family within a practicable time, consistent with the best interests of the child,
 269 the department, child welfare agency or team shall ~~(a)~~ (1) include a full description of the reasons for
 270 this conclusion; ~~(b)~~ (2) provide information on the opportunities for placing the child with a relative or
 271 in an adoptive home; ~~(c)~~ (3) design the plan to lead to the child's successful placement with a relative if
 272 a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest
 273 practicable time; ~~;~~ and (4) if neither of such placements is feasible; ~~(d)~~, explain why permanent foster
 274 care is the plan for the child or independent living is the plan for the child in cases involving children
 275 admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the
 276 goal is independent living.

277 "Independent living" as used in this section has the meaning set forth in § 63.2-100.

278 The local board or other child welfare agency having custody of the child shall not be required by
 279 the court to make reasonable efforts to reunite the child with a parent if the court finds that ~~(1)~~ (A) the
 280 residual parental rights of the parent regarding a sibling of the child have previously been involuntarily
 281 terminated; ~~(2)~~ (B) the parent has been convicted of an offense under the laws of the Commonwealth or
 282 a substantially similar law of any other state, the United States or any foreign jurisdiction that
 283 constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit
 284 any such offense, if the victim of the offense was a child of the parent, a child with whom the parent
 285 resided at the time such offense occurred or the other parent of the child; ~~(3)~~ (C) the parent has been
 286 convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other
 287 state, the United States or any foreign jurisdiction that constitutes felony assault resulting in serious
 288 bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the
 289 victim of the offense was a child of the parent or a child with whom the parent resided at the time of
 290 such offense; or ~~(4)~~ (D) based on clear and convincing evidence, the parent has subjected any child to
 291 aggravated circumstances, or abandoned a child under circumstances which would justify the termination
 292 of residual parental rights pursuant to subsection D of § 16.1-283.

293 As used in this section:

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

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

301 *"Independent living" has the meaning set forth in § 63.2-100.*

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

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

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

309 C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of
310 age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other
311 person standing in loco parentis at the time the board or child welfare agency obtained custody or the
312 board placed the child, to the parents or other person standing in loco parentis, and such other persons
313 as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be
314 sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan shall
315 be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and
316 approving the foster care plan. The hearing shall be held within 60 days of (i) the child's initial foster
317 care placement, if the child was placed through an agreement between the parents or guardians and the
318 local department of social services or a child welfare agency; (ii) the original preliminary removal order
319 hearing, if the child was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for
320 relief of custody, if the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the
321 dispositional hearing at which the child was placed in foster care and an order was entered pursuant to
322 § 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.6, or 16.1-278.8. However, the hearing shall
323 be held in accordance with the provisions of § 16.1-277.01 with a petition for approval of an
324 entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the
325 changes shall be sent by the court to all persons who received a copy of the original of that part of the
326 plan.

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

336 C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent
337 goal for the child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02,
338 16.1-278.3, or 16.1-283; by placing the child in permanent foster care pursuant to clause (iv) of
339 subsection A of § 16.1-282.1; or, in cases in which independent living was identified as the goal for a
340 child in a foster care plan approved prior to July 1, 2011, or in which a child has been admitted to the
341 United States as a refugee or asylee and is over 16 years of age and independent living has been
342 identified as the permanency goal for the child, by directing the board or agency to provide the child
343 with services to achieve independent living status, if the child has attained the age of 16 years, pursuant
344 to clause (v) of subsection A of § 16.1-282.1 shall state whether reasonable efforts have been made to
345 place the child in a timely manner in accordance with the foster care plan and to complete the steps
346 necessary to finalize the permanent placement of the child.

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

350 E. 1. *In cases in which a child is placed by the local board of social services or a licensed*
351 *child-placing agency in a qualified residential treatment program as defined in § 16.1-228, a hearing*
352 *shall be held within 60 days of such placement. Prior to such hearing, the qualified residential*
353 *treatment program shall file with the court the assessment report prepared pursuant to clause (viii) of*
354 *the definition of qualified residential treatment program set forth in § 16.1-228. The court shall (i)*
355 *consider the assessment report prepared by a qualified individual pursuant to clause (viii) of the*
356 *definition of qualified residential treatment program set forth in § 16.1-228 and submitted pursuant to*
357 *this subsection; (ii) consider the report and documentation required under subsection A of § 63.2-906.1*
358 *and filed with the foster care or permanency plan; (iii) determine whether the needs of the child can be*
359 *met through placement in a foster home or, if not, whether placement in the qualified residential*
360 *treatment program would provide the most effective and appropriate level of care for the child in the*
361 *least restrictive environment and be consistent with the short-term and long-term goals established for*

362 the child in his foster care or permanency plan; and (iv) approve or deny the placement of the child in
 363 the qualified residential treatment program. The hearing required by this subsection may be held in
 364 conjunction with a dispositional hearing held pursuant to subsection C, a foster care review hearing
 365 held pursuant to § 16.1-282, a permanency planning hearing held pursuant to § 16.1-282.1, or an
 366 annual foster care review hearing held pursuant to § 16.1-282.2, provided that such hearing has already
 367 been scheduled by the court and is held within 60 days of the child's placement in the qualified
 368 residential treatment program.

369 2. If the child remains placed in the qualified residential treatment program during any subsequent
 370 hearings held pursuant to subsection C or § 16.1-282, 16.1-282.1, or 16.1-282.2, the local board of
 371 social services or licensed child-placing agency shall present evidence at such hearing that demonstrates
 372 (i) that the ongoing assessment of the child's strengths and needs continues to support the determination
 373 that the child's needs cannot be met through placement in a foster home and that the child's placement
 374 in the qualified residential treatment program provides the most effective and appropriate level of care
 375 for the child in the least restrictive environment and is consistent with the short-term and long-term
 376 goals established for the child in his foster care or permanency plan; (ii) the specific treatment or
 377 service needs of the child that will be met in the qualified residential treatment program and the length
 378 of time the child is expected to need such treatment or services; and (iii) the efforts made by the local
 379 board of social services to prepare the child to return home or to be placed with a fit and willing
 380 relative, legal guardian, or adoptive parent, or in a foster home. The court shall review such evidence
 381 and approve or deny the continued placement of the child in the qualified residential treatment program.

382 F. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall
 383 schedule a foster care review hearing to be held within four months in accordance with § 16.1-282.
 384 However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review
 385 hearing to be held within 12 months of the entry of such order in accordance with the provisions of
 386 § 16.1-282.2. Parties who are present at the hearing at which the initial foster care plan is reviewed shall
 387 be given notice of the date set for the foster care review hearing and parties who are not present shall
 388 be summoned as provided in § 16.1-263.

389 E. G. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile
 390 court, upon order of the judge, to review the status of children in the custody of local boards of social
 391 services or placed by local boards of social services on its own motion. The court shall appoint an
 392 attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster
 393 care plan filed for the child or to review the child's status in foster care.

394 **§ 16.1-282. Foster care review.**

395 A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to
 396 § 16.1-281, a foster care review hearing shall be held within four months of the dispositional hearing at
 397 which the foster care plan pursuant to § 16.1-281 was reviewed if the child: ~~(a)~~ (i) was placed through
 398 an agreement between the parents or guardians and the local board of social services where legal
 399 custody remains with the parents or guardians and such agreement has not been dissolved by court
 400 order; or ~~(b)~~ (ii) is under the legal custody of a local board of social services or a child welfare agency
 401 and has not had a petition to terminate parental rights granted, filed or ordered to be filed on the child's
 402 behalf; has not been placed in permanent foster care; or is age 16 or over and the plan for the child is
 403 not independent living.

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

410 B. The petition shall:

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

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

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

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

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

425 6. Set forth the disposition sought and the grounds therefor; however, in the case of a child who has
426 attained age 16 and for whom the plan is independent living, the foster care plan shall be included and
427 shall address the services needed to assist the child to transition from foster care to independent living.

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

432 1. The child, if he is 12 years of age or older;

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

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

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

448 5. The petitioning board or child welfare agency; and

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

452 D. *In cases in which a child is placed by the local board of social services or a licensed*
453 *child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the*
454 *provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

455 E. At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the
456 best interests of the child and subject to the provisions of subsection ~~D~~ F, enter any appropriate order
457 of disposition consistent with the dispositional alternatives available to the court at the time of the
458 original hearing. The court order shall state whether reasonable efforts, if applicable, have been made to
459 reunite the child with his parents, guardian or other person standing in loco parentis to the child. Any
460 order entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the
461 child by terminating residual parental rights pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or
462 16.1-283; by placing the child in permanent foster care pursuant to ~~subdivision clause (iv) of subsection~~
463 ~~A iv~~ of § 16.1-282.1; or, if the child has attained the age of 16 years and the plan for the child is
464 independent living, directing the board or agency to provide the necessary services to transition from
465 foster care, pursuant to ~~subdivision clause (v) of subsection A v~~ of § 16.1-282.1 shall state whether
466 reasonable efforts have been made to place the child in a timely manner in accordance with the foster
467 care plan and to complete the steps necessary to finalize the permanent placement of the child.

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

477 E. G. The court shall possess continuing jurisdiction over cases reviewed under this section for so
478 long as a child remains in a foster care placement or, when a child is returned to his prior family
479 subject to conditions imposed by the court, for so long as such conditions are effective. After the
480 hearing required pursuant to subsection C, the court shall schedule a permanency planning hearing on
481 the case to be held five months thereafter in accordance with § 16.1-282.1 or within 30 days upon the
482 petition of any party entitled to notice in proceedings under this section when the judge determines there
483 is good cause shown for such a hearing. However, in the case of a child who is the subject of an order

484 that has the effect of achieving a permanent goal for the child by terminating residual parental rights
 485 pursuant to § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283; by placing the child in permanent foster
 486 care pursuant to ~~subdivision~~ *clause (iv) of subsection A* ~~iv~~ of § 16.1-282.1; or by directing the board or
 487 agency to provide the child with services to achieve independent living status, if the child has attained
 488 the age of 16 years, pursuant to ~~subdivision~~ *clause (v) of subsection A* ~~v~~ of § 16.1-282.1, a permanency
 489 planning hearing within five months shall not be required and the court shall schedule a foster care
 490 review hearing to be held within 12 months of the entry of such order in accordance with the provisions
 491 of § 16.1-282.2.

492 **§ 16.1-282.1. Permanency planning hearing for children in foster care.**

493 A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to
 494 § 16.1-281, a permanency planning hearing shall be held within 10 months of the dispositional hearing
 495 at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an
 496 agreement between the parents or guardians and the local board of social services where legal custody
 497 remains with the parents or guardians and such agreement has not been dissolved by court order; or (b)
 498 is under the legal custody of a local board of social services or a child welfare agency and has not had
 499 a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster
 500 care, or is age 16 or over and the plan for the child is not independent living. The board or child
 501 welfare agency shall file a petition for a permanency planning hearing 30 days prior to the date of the
 502 permanency planning hearing scheduled by the court. The purpose of this hearing is to establish a
 503 permanent goal for the child and either to achieve the permanent goal or to defer such action through
 504 the approval of an interim plan for the child.

505 To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i)
 506 transfer the custody of the child to his prior family, or dissolve the board's placement agreement and
 507 return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's
 508 prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant
 509 to § 16.1-277.01 or 16.1-283; (iv) place a child who is 16 years of age or older in permanent foster care
 510 pursuant to § 63.2-908; (v) if the child has been admitted to the United States as a refugee or asylee and
 511 has attained the age of 16 years or older and the plan is independent living, direct the board or agency
 512 to provide the child with services to transition from foster care; or (vi) place a child who is 16 years of
 513 age or older in another planned permanent living arrangement in accordance with the provisions of
 514 subsection A2. In cases in which a foster care plan approved prior to July 1, 2011, includes independent
 515 living as the goal for a child who is not admitted to the United States as an asylee or refugee, the
 516 petition shall direct the board or agency to provide the child with services to transition from foster care.

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

521 Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the
 522 court shall schedule such a hearing to be held within 30 days. The permanency planning hearing shall
 523 be held within 10 months of the dispositional hearing at which the foster care plan was reviewed
 524 pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The
 525 procedures of subsection C of § 16.1-282 and the provisions of subsection ~~E~~ G of § 16.1-282 shall apply
 526 to the scheduling and notice of proceedings under this section.

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

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

540 1. The board or child welfare agency shall petition for alternative (vi) of subsection A only if the
 541 child has a severe and chronic emotional, physical or neurological disabling condition for which the
 542 child requires long-term residential treatment; and the board or child welfare agency has thoroughly
 543 investigated the feasibility of the alternatives listed in *clauses (i) through (v) of subsection A* and
 544 determined that none of those alternatives is in the best interests of the child. In a foster care plan filed

545 with the petition pursuant to this section, the board or agency shall document the following: (i) the
 546 investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A
 547 and why each of these is not currently in the best interest of the child; (ii) at least one compelling
 548 reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the
 549 time placement in another planned permanent living arrangement is selected as the permanent goal for
 550 the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the
 551 child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status
 552 of the child's eligibility for admission and long-term treatment. The court shall ensure that the local
 553 department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful
 554 efforts made to return the child home or secure a placement for the child with a fit and willing relative,
 555 including adult siblings, or an adoptive parent, including through efforts that utilize search technology,
 556 including social media, to find the child's biological family members. The court shall ask the child about
 557 the child's desired permanency outcome and make a judicial determination, accompanied by an
 558 explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue
 559 to not be in the best interest of the child.

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

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

574 4. The court shall review a foster care plan for any child who is placed in another planned
 575 permanent living arrangement every six months from the date of the permanency planning hearing held
 576 pursuant to this subsection, so long as the child remains in the legal custody of the board or child
 577 welfare agency. The board or child welfare agency shall file such petitions for review pursuant to the
 578 provisions of § 16.1-282 and shall, in addition, include in the petition the information required by
 579 subdivision A2 1 of ~~subsection A2 of this section~~. The petition for foster care review shall be filed no
 580 later than 30 days prior to the hearing scheduled in accordance with subdivision A2 3 of ~~subsection A2~~.
 581 At the conclusion of the foster care review hearing, if alternative (vi) of subsection A remains the
 582 permanent plan, the court shall enter an order that states whether reasonable efforts have been made to
 583 place the child in a timely manner in accordance with the permanency plan and to monitor the child's
 584 status in another planned permanent living arrangement.

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

593 A3. The following requirements shall apply to the selection and approval of permanent foster care
 594 pursuant to clause (iv) of subsection A:

595 1. The court shall ensure that the local department has documentation of the intensive, ongoing, and,
 596 as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement
 597 for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including
 598 through efforts that utilize search technology, including social media, to find the child's biological family
 599 members.

600 2. The court shall ask the child about the child's desired permanency outcome and make a judicial
 601 determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i)
 602 through (iii) of subsection A continue to not be in the best interest of the child.

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

605 1. The board or child welfare agency shall petition for approval of an interim plan only if the board

606 or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i)
 607 through (v) of subsection A and determined that none of those alternatives is in the best interest of the
 608 child. If the board or agency petitions for approval of an interim plan, such plan may be approved by
 609 the court for a maximum period of six months. The board or agency shall also file a foster care plan
 610 that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in
 611 clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal
 612 within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses
 613 (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at
 614 this time. The foster care plan shall describe the child's placement, including the in-state and out-of-state
 615 placement options and whether the child's placement is in state or out of state. If the child's placement is
 616 out of state, the foster care plan shall provide the reason why the out-of-state placement is appropriate
 617 and in the best interests of the child.

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

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

623 b. When returning home is not the plan for the child, that marked progress is being made to achieve
 624 the permanent goal identified by the board or child welfare agency and that it is premature to set an
 625 exact date for accomplishing the goal at the time of this hearing. The court shall consider the in-state
 626 and out-of-state placement options, and if the child has been placed out of state, determine whether the
 627 out-of-state placement is appropriate and in the best interests of the child.

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

634 C. In each permanency planning hearing and in any hearing regarding the transition of the child from
 635 foster care to independent living, the court shall consult with the child in an age-appropriate manner
 636 regarding the proposed permanency plan or transition plan for the child, unless the court finds that such
 637 consultation is not in the best interests of the child.

638 D. *In cases in which a child is placed by the local board of social services or a licensed*
 639 *child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the*
 640 *provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

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

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

650 **§ 16.1-282.2. Annual foster care review.**

651 A. The court shall review a foster care plan annually for any child who remains in the legal custody
 652 of a local board of social services or a child welfare agency and (i) on whose behalf a petition to
 653 terminate parental rights has been granted, filed or ordered to be filed, (ii) who is placed in permanent
 654 foster care, or (iii) who is age 16 or over and for whom the plan is independent living. The foster care
 655 review hearing shall be scheduled at the conclusion of a hearing held pursuant to § 16.1-281, 16.1-282,
 656 or 16.1-282.1 at which the order is entered: terminating parental rights, directing the filing of a petition
 657 for termination of parental rights by the board or agency, placing the child in permanent foster care, or
 658 directing the board or agency to provide the child who is age 16 or over and for whom the plan is
 659 independent living with services to transition from foster care. The foster care review hearing shall be
 660 held within 12 months of the date of such order, so long as the child remains in the custody of the
 661 board or agency.

662 The board or agency shall file the petition for a foster care review hearing, and the court shall
 663 provide notice of the foster care review hearing in accordance with the provisions of § 16.1-282. The
 664 board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to
 665 § 16.1-277.01, 16.1-277.02, 16.1-278.3, or 16.1-283, if applicable, with the petition required by this
 666 section. The court order entered at the conclusion of the hearing held on the petition shall state whether

667 reasonable efforts have been made to place the child in a timely manner in accordance with the
 668 approved foster care plan that established a permanent goal for the child and to complete the steps
 669 necessary to finalize the permanent placement of the child.

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

674 C. At the foster care review hearing in the case of a child who meets the criteria of subdivisions A 1
 675 through 4 of § 16.1-283.2, the court shall inquire of the guardian ad litem and the local board of social
 676 services whether the child has expressed a preference that the possibility of restoring the parental rights
 677 of his parent or parents be investigated. If the child expresses or has expressed such a preference, the
 678 court shall direct the local board of social services or the child's guardian ad litem to conduct an
 679 investigation of the parent or parents. If, following such investigation, the local board of social services
 680 or the child's guardian ad litem deems it appropriate to do so, either may file a petition for the
 681 restoration of parental rights. A hearing on such petition shall be held as provided by § 16.1-283.2.

682 D. *In cases in which a child is placed by the local board of social services or a licensed*
 683 *child-placing agency in a qualified residential treatment program as defined in § 16.1-228, the*
 684 *provisions of subsection E of § 16.1-281 shall apply to any hearing held pursuant to this section.*

685 **§ 37.2-408.1. Background check required; children's residential facilities.**

686 A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or
 687 providing services on a regular basis, every children's residential facility that is regulated or operated by
 688 the Department shall require any person who (i) accepts a position of employment at such a facility ~~who~~
 689 ~~was not employed by that facility prior to July 1, 2008,~~ (ii) *is currently employed by such a facility,* (iii)
 690 volunteers for such a facility ~~on a regular basis and will be alone with a juvenile in the performance of~~
 691 ~~his duties who was not a volunteer at such facility prior to July 1, 2008,~~ or (iii) (iv) provides contractual
 692 services directly to a juvenile for such a facility ~~on a regular basis and will be alone with a juvenile in~~
 693 ~~the performance of his duties who did not provide such services prior to July 1, 2008,~~ to submit to
 694 fingerprinting and to provide personal descriptive information, to be forwarded along with the person's
 695 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for
 696 the purpose of obtaining criminal history record information regarding the person. The children's
 697 residential facility shall inform the person that he is entitled to obtain a copy of any background check
 698 report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution
 699 before a final determination is made of the person's eligibility to have responsibility for the safety and
 700 well-being of children. The person shall provide the children's residential facility with a written
 701 statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending
 702 charges for any offense within or outside the Commonwealth. The results of the criminal history
 703 background check must be received prior to permitting a person to work ~~with children in the children's~~
 704 *residential facility.*

705 The Central Criminal Records Exchange, upon receipt of a person's record or notification that no
 706 record exists, shall forward it to the state agency that operates or regulates the children's residential
 707 facility with which the person is affiliated. The state agency shall, upon receipt of a person's record
 708 lacking disposition data, conduct research in whatever state and local recordkeeping systems are
 709 available in order to obtain complete data. The state agency shall report to the children's facility whether
 710 the person is eligible to have responsibility for the safety and well-being of children. Except as
 711 otherwise provided in subsection B, no children's residential facility regulated or operated by the
 712 Department shall hire for compensated employment or allow to volunteer or provide contractual services
 713 persons who have been convicted of or are the subject of pending charges for (a) any offense set forth
 714 in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set
 715 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the
 716 application date for employment, to be a volunteer, or to provide contractual services or (2) such person
 717 continues on probation or parole or has failed to pay required court costs for such offense set forth in
 718 clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall
 719 apply to structured residential programs, excluding secure detention facilities, established pursuant to
 720 § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that
 721 alleges the juvenile is delinquent or in need of services or supervision.

722 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
 723 compensated employment or for volunteer or contractual service purposes persons who have been
 724 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
 725 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,
 726 unless the person committed such offense in the scope of his employment, volunteer, or contractual
 727 services.

728 If the person is denied employment, or the opportunity to volunteer or provide services, at a
 729 children's residential facility because of information appearing on his criminal history record, and the
 730 person disputes the information upon which the denial was based, upon written request of the person the
 731 state agency shall furnish the person the procedures for obtaining his criminal history record from the
 732 Federal Bureau of Investigation. ~~If the person has been permitted to assume duties that do not involve
 733 contact with children pending receipt of the report, the children's residential facility is not precluded
 734 from suspending the person from his position pending a final determination of the person's eligibility to
 735 have responsibility for the safety and well-being of children.~~ The information provided to the children's
 736 residential facility shall not be disseminated except as provided in this section.

737 C. Those persons listed in clauses (i), (ii), and (iii) through (iv) of subsection A also shall authorize
 738 the children's residential facility to obtain a copy of information from the central registry maintained
 739 pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person
 740 shall provide the children's residential facility with a written statement or affirmation disclosing whether
 741 he has ever been the subject of a founded case of child abuse or neglect within or outside the
 742 Commonwealth. The children's residential facility shall receive the results of the central registry search
 743 prior to permitting a person to work ~~alone with children.~~ Children's residential facilities regulated or
 744 operated by the Department shall not hire for compensated employment, or allow to volunteer or provide
 745 contractual services, persons who have a founded case of child abuse or neglect.

746 D. The cost of obtaining the criminal history record and the central registry information shall be
 747 borne by the person unless the children's residential facility, at its option, decides to pay the cost.

748 **§ 63.2-100. Definitions.**

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

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

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

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

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

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

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

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

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

786 If a civil proceeding under this title is based solely on the parent having left the child at a hospital
 787 or emergency medical services agency, it shall be an affirmative defense that such parent safely
 788 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency

789 medical services agency that employs emergency medical services providers, within 14 days of the
790 child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for
791 adoption, the court may find such a child is a neglected child upon the ground of abandonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

858 "Child day center" means a child day program offered to (i) two or more children under the age of
 859 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or
 860 more children at any location.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

903 "*Family and permanency team*" means the group of individuals assembled by the local department to
 904 assist with determining planning and placement options for a child, which shall include, as appropriate,
 905 all biological relatives and fictive kin of the child, as well as any professionals who have served as a
 906 resource to the child or his family, such as teachers, medical or mental health providers, and clergy
 907 members. In the case of a child who is 14 years of age or older, the family and permanency team shall
 908 also include any members of the child's case planning team that were selected by the child in
 909 accordance with subsection A of § 16.1-281.

910 "Family day home" means a child day program offered in the residence of the provider or the home

911 of any of the children in care for one through 12 children under the age of 13, exclusive of the
912 provider's own children and any children who reside in the home, when at least one child receives care
913 for compensation. The provider of a licensed or registered family day home shall disclose to the parents
914 or guardians of children in their care the percentage of time per week that persons other than the
915 provider will care for the children. Family day homes serving five through 12 children, exclusive of the
916 provider's own children and any children who reside in the home, shall be licensed. However, no family
917 day home shall care for more than four children under the age of two, including the provider's own
918 children and any children who reside in the home, unless the family day home is licensed or voluntarily
919 registered. However, a family day home where the children in care are all related to the provider by
920 blood or marriage shall not be required to be licensed.

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

927 "*Fictive kin*" means persons who are not related to a child by blood or adoption but have an
928 established relationship with the child or his family.

929 "Foster care placement" means placement of a child through (i) an agreement between the parents or
930 guardians and the local board where legal custody remains with the parents or guardians or (ii) an
931 entrustment or commitment of the child to the local board or licensed child-placing agency.

932 "Foster home" means the place of a residence of any natural person licensed by a child-placing
933 agency or local board in which any child, other than a child by birth or adoption of such person,
934 resides as a member of the household.

935 "General relief" means money payments and other forms of relief made to those persons mentioned
936 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with
937 § 63.2-401.

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

944 "Independent living" means a planned program of services designed to assist a child age 16 and over
945 and persons who are former foster care children or were formerly committed to the Department of
946 Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

947 "Independent living arrangement" means placement of (i) a child at least 16 years of age who is in
948 the custody of a local board or licensed child-placing agency by the local board or licensed child-placing
949 agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was
950 committed to the Department of Juvenile Justice immediately prior to placement by the Department of
951 Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute
952 parental supervision.

953 "Independent living services" means services and activities provided to a child in foster care 14 years
954 of age or older who was committed or entrusted to a local board of social services, child welfare
955 agency, or private child-placing agency. "Independent living services" may also mean services and
956 activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached
957 the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his
958 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
959 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was
960 committed to the Department of Juvenile Justice immediately prior to placement in an independent
961 living arrangement. Such services shall include counseling, education, housing, employment, and money
962 management skills development, access to essential documents, and other appropriate services to help
963 children or persons prepare for self-sufficiency.

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

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

971 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care

972 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of
 973 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
 974 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
 975 action of any court.

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

977 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
 978 accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the
 979 child's foster parent.

980 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a
 981 child and an adult relative of the child who has formerly acted as the child's foster parent that is
 982 intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
 983 relative of the child of the authority necessary to ensure the protection, education, care and control, and
 984 custody of the child and the authority for decision making for the child.

985 "Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that
 986 provides, subject to a kinship guardianship assistance agreement developed in accordance with
 987 § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom
 988 they had been the foster parents.

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

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

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

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

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

999 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the
 1000 aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child
 1001 care; and general relief.

1002 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services
 1003 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for
 1004 a home and community-based waiver program, including an independent physician contracting with the
 1005 Department of Medical Assistance Services to complete the uniform assessment instrument for residents
 1006 of assisted living facilities, or any hospital that has contracted with the Department of Medical
 1007 Assistance Services to perform nursing facility pre-admission screenings.

1008 *"Qualified individual" means a trained professional or licensed clinician who is not an employee of*
 1009 *the local board of social services or licensed child-placing agency that placed the child in a qualified*
 1010 *residential treatment program and is not affiliated with any placement setting in which children are*
 1011 *placed by such local board of social services or licensed child-placing agency.*

1012 *"Qualified residential treatment program" means a program that (i) provides 24-hour residential*
 1013 *placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that*
 1014 *meets the clinical and other needs of children with serious emotional or behavioral disorders, including*
 1015 *any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this*
 1016 *definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site*
 1017 *and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts*
 1018 *outreach with the child's family members, including efforts to maintain connections between the child*
 1019 *and his siblings and other family; documents and maintains records of such outreach efforts; and*
 1020 *maintains contact information for any known biological family and fictive kin of the child; (v) whenever*
 1021 *appropriate and in the best interest of the child, facilitates participation by family members in the*
 1022 *child's treatment program before and after discharge and documents the manner in which such*
 1023 *participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at*
 1024 *least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and*
 1025 *accredited by an organization approved by the federal Secretary of Health and Human Services; and*
 1026 *(viii) requires that any child placed in the program receive an assessment within 30 days of such*
 1027 *placement by a qualified individual that (a) assesses the strengths and needs of the child using an*
 1028 *age-appropriate, evidence-based, validated, and functional assessment tool approved by the*
 1029 *Commissioner of Social Services; (b) identifies whether the needs of the child can be met through*
 1030 *placement with a family member or in a foster home or, if not, in a placement setting authorized by 42*
 1031 *U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most*
 1032 *effective and appropriate level of care for the child in the least restrictive environment and be consistent*

1033 *with the short-term and long-term goals established for the child in his foster care or permanency plan;*
 1034 *(c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and*
 1035 *(d) is documented in a written report to be filed with the court prior to any hearing on the child's*
 1036 *placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.*

1037 "Registered family day home" means any family day home that has met the standards for voluntary
 1038 registration for such homes pursuant to regulations adopted by the Board and that has obtained a
 1039 certificate of registration from the Commissioner.

1040 "Residential living care" means a level of service provided by an assisted living facility for adults
 1041 who may have physical or mental impairments and require only minimal assistance with the activities of
 1042 daily living. The definition of "residential living care" includes the services provided by independent
 1043 living facilities that voluntarily become licensed.

1044 "Sibling" means each of two or more children having one or more parents in common.

1045 "Social services" means foster care, adoption, adoption assistance, child-protective services, domestic
 1046 violence services, or any other services program implemented in accordance with regulations adopted by
 1047 the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of
 1048 Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14
 1049 of Title 51.5 provided by local departments of social services in accordance with regulations and under
 1050 the supervision of the Commissioner for Aging and Rehabilitative Services.

1051 "Special order" means an order imposing an administrative sanction issued to any party licensed
 1052 pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A
 1053 special order shall be considered a case decision as defined in § 2.2-4001.

1054 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the
 1055 Department through which a relative can receive monthly cash assistance for the support of his eligible
 1056 children.

1057 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the
 1058 Temporary Assistance for Needy Families program for families in which both natural or adoptive
 1059 parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for
 1060 Employment Not Welfare (VIEW) participation under § 63.2-609.

1061 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social
 1062 Security Act, as amended, and administered by the Department through which foster care is provided on
 1063 behalf of qualifying children.

1064 **§ 63.2-906.1. Qualified residential treatment programs.**

1065 *A. In cases in which a child is placed by a local board or licensed child-placing agency in a*
 1066 *qualified residential treatment program as defined in § 63.2-100, the foster care plan shall include (i) a*
 1067 *description of the reasonable and good faith efforts made by the local department to identify and*
 1068 *include on the child's family and permanency team all appropriate biological relatives, fictive kin,*
 1069 *professionals, and, if the child is 14 years of age or older, members of the child's case planning team*
 1070 *that were selected by the child in accordance with subsection A of § 16.1-281; (ii) contact information*
 1071 *for all members of the child's family and permanency team and for other family members and fictive*
 1072 *kin; (iii) evidence that all meetings of the family and permanency team are held at a time and place*
 1073 *convenient for the child's family; (iv) if reunification is the goal for the child, evidence demonstrating*
 1074 *that the parent from whom the child was removed provided input on the members of the family and*
 1075 *permanency team; (v) the assessment report prepared pursuant to clause (viii) of the definition of*
 1076 *qualified residential treatment program set forth in § 63.2-100 and evidence that such assessment was*
 1077 *conducted in conjunction with the child's family and permanency team; (vi) the placement preferences of*
 1078 *the child and the family and permanency team with recognition that the child should be placed with his*
 1079 *siblings unless the court finds that such placement is contrary to the best interest of the child; and (vii)*
 1080 *if the placement preferences of the child and the family and permanency team differ from the placement*
 1081 *recommended in the assessment report prepared pursuant to clause (viii) of the definition of qualified*
 1082 *residential treatment program set forth in § 63.2-100, the reasons why the preferences of the child and*
 1083 *the family and permanency team were not recommended.*

1084 *B. In all cases in which a child is placed by a local board or licensed child-placing agency in a*
 1085 *qualified residential treatment program as defined in § 63.2-100, a hearing shall be held in accordance*
 1086 *with the provisions of subsection E of § 16.1-281 within 60 days of such placement.*

1087 *C. If any child 13 years of age or older is placed in a qualified residential treatment program for*
 1088 *more than 12 consecutive months or 18 nonconsecutive months, or any child 12 years of age or younger*
 1089 *is placed in a qualified residential treatment program for more than six consecutive or nonconsecutive*
 1090 *months, the Commissioner shall submit to the federal Secretary of Health and Human Services (i) the*
 1091 *most recent versions of the evidence and documentation required under subdivision E 2 of § 16.1-181*
 1092 *and (ii) a written approval, signed by the Commissioner, for the continued placement of the child in the*
 1093 *qualified residential treatment program.*

1094 **§ 63.2-1726. Background check required; children's residential facilities.**

1095 A. As a condition of employment, volunteering, or providing services on a regular basis, every
 1096 children's residential facility that is regulated or operated by the Departments of Social Services,
 1097 Education, Military Affairs, or Behavioral Health and Developmental Services shall require any
 1098 individual who (i) accepts a position of employment at such a facility ~~who was not employed by that~~
 1099 ~~facility prior to July 1, 2007,~~ (ii) *is employed by such a facility,* (iii) volunteers for such a facility ~~on a~~
 1100 ~~regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer~~
 1101 ~~at such facility prior to July 1, 2007,~~ or (iii) (iv) provides contractual services directly to a juvenile for
 1102 such a facility ~~on a regular basis and will be alone with a juvenile in the performance of his duties who~~
 1103 ~~did not provide such services prior to July 1, 2007,~~ to submit to fingerprinting and to provide personal
 1104 descriptive information, to be forwarded along with the applicant's fingerprints through the Central
 1105 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal
 1106 history record information regarding such applicant. The children's residential facility shall inform the
 1107 applicant that he is entitled to obtain a copy of any background check report and to challenge the
 1108 accuracy and completeness of any such report and obtain a prompt resolution before a final
 1109 determination is made of the applicant's eligibility to have responsibility for the safety and well-being of
 1110 children. The applicant shall provide the children's residential facility with a written statement or
 1111 affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for
 1112 any offense within or outside the Commonwealth. The results of the criminal history background check
 1113 must be received prior to permitting an applicant to work ~~with children in the children's residential~~
 1114 *facility.*

1115 The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no
 1116 record exists, shall forward it to the state agency which operates or regulates the children's residential
 1117 facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's
 1118 record lacking disposition data, conduct research in whatever state and local recordkeeping systems are
 1119 available in order to obtain complete data. The state agency shall report to the children's facility whether
 1120 the applicant is eligible to have responsibility for the safety and well-being of children. Except as
 1121 otherwise provided in subsection B, no children's residential facility regulated or operated by the
 1122 Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social
 1123 Services shall hire for compensated employment or allow to volunteer or provide contractual services
 1124 persons who have been convicted of or are the subject of pending charges for (a) any offense set forth
 1125 in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set
 1126 forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the
 1127 application date for employment, to be a volunteer, or to provide contractual services or (2) such person
 1128 continues on probation or parole or has failed to pay required court costs for such offense set forth in
 1129 clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall
 1130 apply to residential programs established pursuant to § 16.1-309.3 for juvenile offenders cited in a
 1131 complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of
 1132 services or supervision and to local secure detention facilities, provided, however, that the provisions of
 1133 this section related to local secure detention facilities shall only apply to an individual who, on or after
 1134 July 1, 2013, accepts a position of employment at such local secure detention facility, volunteers at such
 1135 local secure detention facility on a regular basis and will be alone with a juvenile in the performance of
 1136 his duties, or provides contractual services directly to a juvenile at a local secure detention facility on a
 1137 regular basis and will be alone with a juvenile in the performance of his duties. The Central Criminal
 1138 Records Exchange and the state or local agency that regulates or operates the local secure detention
 1139 facility shall process the criminal history record information regarding such applicant in accordance with
 1140 this subsection and subsection B.

1141 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
 1142 compensated employment or for volunteer or contractual service purposes persons who have been
 1143 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
 1144 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,
 1145 unless the person committed such offense in the scope of his employment, volunteer, or contractual
 1146 services.

1147 If the applicant is denied employment or the opportunity to volunteer or provide services at a
 1148 children's residential facility because of information appearing on his criminal history record, and the
 1149 applicant disputes the information upon which the denial was based, upon written request of the
 1150 applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history
 1151 record from the Federal Bureau of Investigation. ~~If the applicant has been permitted to assume duties~~
 1152 ~~that do not involve contact with children pending receipt of the report, the children's residential facility~~
 1153 ~~is not precluded from suspending the applicant from his position pending a final determination of the~~
 1154 ~~applicant's eligibility to have responsibility for the safety and well-being of children.~~ The information

1155 provided to the children's residential facility shall not be disseminated except as provided in this section.
1156 C. Those individuals listed in clauses (i), ~~(ii)~~ and ~~(iii)~~ through (iv) of subsection A also shall
1157 authorize the children's residential facility to obtain a copy of information from the central registry
1158 maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.
1159 The applicant shall provide the children's residential facility with a written statement or affirmation
1160 disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or
1161 outside the Commonwealth. The children's residential facility shall receive the results of the central
1162 registry search prior to permitting an applicant to work ~~alone with children~~. Children's residential
1163 facilities regulated or operated by the Departments of Education; Behavioral Health and Developmental
1164 Services; Military Affairs; and Social Services shall not hire for compensated employment or allow to
1165 volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.
1166 Every residential facility for juveniles which is regulated or operated by the Department of Juvenile
1167 Justice shall be authorized to obtain a copy of the information from the central registry.
1168 D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and
1169 Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with
1170 the provisions of this section. Copies of any information received by a children's residential facility
1171 pursuant to this section shall be available to the agency that regulates or operates such facility but shall
1172 not be disseminated further. The cost of obtaining the criminal history record and the central registry
1173 information shall be borne by the employee or volunteer unless the children's residential facility, at its
1174 option, decides to pay the cost.
1175 **2. That an emergency exists and the provisions of this act amending §§ 37.2-408.1 and 63.2-1726 of**
1176 **the Code of Virginia are in force from its passage.**