

18104498D

HOUSE BILL NO. 998

House Amendments in [] — February 8, 2018

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

Patron Prior to Engrossment—Delegate Byron

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

CHAPTER 10.

POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAL POWERS.

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

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

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

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

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

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

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

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

F. Under a delegation of powers as authorized by subsection A, the child subject to the power of attorney shall not be deemed placed in foster care, in a foster home, or in an independent foster home

ENGROSSED

HB998E

59 as defined in § 63.2-100, and the parties shall not be subject to any of the licensing requirements or
60 regulations for foster care.

61 G. [A private nonprofit organization that assists parents and legal guardians with the process of
62 delegating parental and legal custodial powers of their children shall (i) comply with background check
63 requirements established by regulations of the Board of Social Services or otherwise provided by law;
64 (ii) develop and implement written policies and procedures for governing active and closed cases,
65 governing admissions, monitoring the administration of medications, prohibiting corporal punishment,
66 ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct
67 toward children, implementing back-up emergency care plans for children, assigning designated
68 casework staff, managing all records, utilizing discharge policies, and regulating the use of seclusion
69 and restraint; and (iii) provide pre-service and ongoing training for temporary placement providers and
70 staff.

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

78 **§ 20-167. Statutory form for power of attorney to delegate parental or legal custodial powers.**

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

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

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

83 Full name of minor child: _____ Date of birth: _____

84 Full name of minor child: _____ Date of birth: _____

85 Full name of minor child: _____ Date of birth: _____

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

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

104 OR

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

106 _____
107 _____.

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

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

OR

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

Signature(s) of parent/legal custodian: _____ Date: _____

5. I hereby accept my designation as attorney-in-fact for the minor child/children specified in this power of attorney and agree to act at all times in the best interests of the child/children specified herein and within the limits of the powers delegated to me. I understand that this power of attorney does not change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive a parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child/children specified herein. By my signature below, I affirm that I have received notice of any existing court order regarding the custody, visitation, or support of the child/children and agree to honor the rights of a parent or legal custodian of the child/children as specified in such order.

Signature of attorney-in-fact: _____ Date: _____

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

Signature of representative of qualified nonprofit: _____ Date: _____

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

§ 63.2-100. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

231 "Assisted living facility" means any congregate residential setting that provides or coordinates
232 personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for
233 the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for
234 in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board
235 of Health or the Department of Behavioral Health and Developmental Services, but including any
236 portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or
237 maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility
238 serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational
239 program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as
240 a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the
241 facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled
242 that provides no more than basic coordination of care services and is funded by the U.S. Department of
243 Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing

Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

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

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

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

"Board" means the State Board of Social Services.

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

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

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

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

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

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

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

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

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

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

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

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

"Department" means the State Department of Social Services.

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

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

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance

305 with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the
306 Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

307 "Family day home" means a child day program offered in the residence of the provider or the home
308 of any of the children in care for one through 12 children under the age of 13, exclusive of the
309 provider's own children and any children who reside in the home, when at least one child receives care
310 for compensation. The provider of a licensed or registered family day home shall disclose to the parents
311 or guardians of children in their care the percentage of time per week that persons other than the
312 provider will care for the children. Family day homes serving five through 12 children, exclusive of the
313 provider's own children and any children who reside in the home, shall be licensed. However, no family
314 day home shall care for more than four children under the age of two, including the provider's own
315 children and any children who reside in the home, unless the family day home is licensed or voluntarily
316 registered. However, a family day home where the children in care are all related to the provider by
317 blood or marriage shall not be required to be licensed.

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

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

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

335 "General relief" means money payments and other forms of relief made to those persons mentioned
336 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with
337 § 63.2-401.

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

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

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

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

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

365 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster
366 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other

entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 63.2-1715. Exemptions from licensure.

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

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks,

homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

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

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

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

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

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

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

9. Practice or competition in organized competitive sports leagues.

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

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

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

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

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

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

C. *No private nonprofit organization that assists parents or legal custodians with the process of delegating parental or custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20, including assistance with identifying appropriate placements for their children, or provides services and resources to support children, parents and legal guardians, and persons to whom parental or legal custodial power are delegated pursuant to Chapter 10 of Title 20 shall be required to obtain a license as a child-placing agency from the Commissioner. No person to whom parental and legal custodial powers have been delegated pursuant to Chapter 10 of Title 20 shall be required to obtain a license to operate an independent foster home or approval as a foster parent from the Commissioner.*

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