

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 8.01-226.5:2, 16.1-228, 18.2-371, 18.2-371.1, 40.1-103, and 63.2-100 of the Code of Virginia, relating to save haven protections; newborn safety device.

Approved

[H 16]

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-226.5:2, 16.1-228, 18.2-371, 18.2-371.1, 40.1-103, and 63.2-100 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-226.5:2. Immunity of hospital and emergency medical services agency personnel for the acceptance of certain infants.

Any personnel of a hospital or emergency medical services agency receiving a child under the circumstances described in the second paragraph of § 18.2-371, subdivision B 2 of § 18.2-371.1, or subsection B of § 40.1-103 shall be immune from civil liability or criminal prosecution for injury or other damage to the child unless such injury or other damage is the result of gross negligence or willful misconduct by such personnel. *Any hospital or emergency medical services agency that voluntarily installs a newborn safety device for the reception of children shall ensure that (i) the device is located inside the hospital or emergency medical services agency in an area that is conspicuous and visible to employees or personnel, (ii) the device is staffed 24 hours a day by a health care provider or emergency medical services personnel, (iii) the device is climate controlled and serves as a safe sleep environment for an infant, (iv) the device is equipped with a dual alarm system that sounds 60 seconds after a child is placed in the device and automatically places a call to 911 if the alarm is not deactivated within 60 seconds from within the hospital or emergency medical services agency, (v) the dual alarm system is visually checked at least two times per day and tested at least one time per week to ensure the alarm system is in working order, (vi) the device automatically locks when a child is placed in the device, and (vii) the device is identifiable by appropriate signage that shall include written and pictorial operational instructions.*

§ 16.1-228. Definitions.

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

"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. 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;

57 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
 58 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
 59 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who
 60 the parent or other person responsible for his care knows has been convicted of an offense against a
 61 minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

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

65 If a civil proceeding under this chapter is based solely on the parent having left the child at a
 66 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely
 67 delivered the child *within 30 days of the child's birth* to (i) a hospital that provides 24-hour emergency
 68 services ~~or to~~, (ii) an attended emergency medical services agency that employs emergency medical
 69 services personnel, ~~within 14 days of the child's birth~~ or (iii) a newborn safety device located at and
 70 operated by such hospital or emergency medical services agency. For purposes of terminating parental
 71 rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected
 72 child upon the ground of abandonment.

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

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

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

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

83 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for
 84 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of
 85 Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

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

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

100 "Child in need of supervision" means:

101 1. A child who, while subject to compulsory school attendance, is habitually and without justification
 102 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
 103 any and all educational services and programs that are required to be provided by law and which meet
 104 the child's particular educational needs, (ii) the school system from which the child is absent or other
 105 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
 106 and (iii) the school system has provided documentation that it has complied with the provisions of
 107 § 22.1-258; or

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

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

117 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile

118 and domestic relations district court of each county or city.

119 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
 120 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of
 121 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an
 122 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
 123 committed by a child.

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

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

130 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or
 131 the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the
 132 highways.

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

139 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the
 140 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same
 141 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,
 142 half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in
 143 the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law,
 144 daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v)
 145 any individual who has a child in common with the person, whether or not the person and that
 146 individual have been married or have resided together at any time, or (vi) any individual who cohabits
 147 or who, within the previous 12 months, cohabited with the person, and any children of either of them
 148 then residing in the same home with the person.

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

151 "Foster care services" means the provision of a full range of casework, treatment and community
 152 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or
 153 in need of services as defined in this section and his family when the child (i) has been identified as
 154 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through
 155 an agreement between the local board of social services or a public agency designated by the
 156 community policy and management team and the parents or guardians where legal custody remains with
 157 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or
 158 child welfare agency, (iv) has been placed under the supervisory responsibility of the local board
 159 pursuant to § 16.1-293, or (v) is living with a relative participating in the Federal-Funded Kinship
 160 Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C.
 161 § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.

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

168 "Independent living services" means services and activities provided to a child in foster care 14 years
 169 of age or older and who has been committed or entrusted to a local board of social services, child
 170 welfare agency, or private child-placing agency. "Independent living services" may also mean services
 171 and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet
 172 reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his
 173 commitment to the Department of Juvenile Justice, was in the custody of a local board of social
 174 services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was
 175 committed to the Department of Juvenile Justice immediately prior to placement in an independent
 176 living arrangement. "Independent living services" includes counseling, education, housing, employment,
 177 and money management skills development and access to essential documents and other appropriate
 178 services to help children or persons prepare for self-sufficiency.

179 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this
180 chapter.

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

185 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
186 court of each county or city.

187 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in
188 this chapter.

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

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

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

205 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
206 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
207 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
208 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
209 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
210 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
211 outreach with the child's family members, including efforts to maintain connections between the child
212 and his siblings and other family; documents and maintains records of such outreach efforts; and
213 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
214 appropriate and in the best interest of the child, facilitates participation by family members in the child's
215 treatment program before and after discharge and documents the manner in which such participation is
216 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
217 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
218 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
219 any child placed in the program receive an assessment within 30 days of such placement by a qualified
220 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
221 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
222 identifies whether the needs of the child can be met through placement with a family member or in a
223 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
224 residential treatment program, that would provide the most effective and appropriate level of care for the
225 child in the least restrictive environment and be consistent with the short-term and long-term goals
226 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
227 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
228 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
229 16.1-282.1, or 16.1-282.2.

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

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

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

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

239 "Status offender" means a child who commits an act prohibited by law which would not be criminal

240 if committed by an adult.

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

243 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
244 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

245 **§ 18.2-371. Causing or encouraging acts rendering children delinquent, abused, etc.; penalty;**
246 **abandoned infant.**

247 Any person 18 years of age or older, including the parent of any child, who (i) willfully contributes
248 to, encourages, or causes any act, omission, or condition that renders a child delinquent, in need of
249 services, in need of supervision, or abused or neglected as defined in § 16.1-228 or (ii) engages in
250 consensual sexual intercourse or anal intercourse with or performs cunnilingus, fellatio, or anilingus
251 upon or by a child 15 or older not his spouse, child, or grandchild is guilty of a Class 1 misdemeanor.
252 This section shall not be construed as repealing, modifying, or in any way affecting §§ 18.2-18, 18.2-19,
253 18.2-61, 18.2-63, and 18.2-347.

254 If the prosecution under this section is based solely on the accused parent having left the child at a
255 hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a
256 parent under this section that such parent safely delivered the child *within the first 30 days of the child's*
257 *life to (a) a hospital that provides 24-hour emergency services or to, (b) an attended emergency medical*
258 *services agency that employs emergency medical services personnel, within the first 14 days of the*
259 *child's life or (c) a newborn safety device located at and operated by such hospital or emergency*
260 *medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a*
261 *manner reasonably calculated to ensure the child's safety.*

262 **§ 18.2-371.1. Abuse and neglect of children; penalty; abandoned infant.**

263 A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who
264 by willful act or willful omission or refusal to provide any necessary care for the child's health causes or
265 permits serious injury to the life or health of such child is guilty of a Class 4 felony. For purposes of
266 this subsection, "serious injury" includes but is not limited to (i) disfigurement, (ii) a fracture, (iii) a
267 severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances,
268 and (vii) life-threatening internal injuries. For purposes of this subsection, "willful act or willful
269 omission" includes operating or engaging in the conduct of a child welfare agency as defined in
270 § 63.2-100 without first obtaining a license such person knows is required by Subtitle IV (§ 63.2-1700 et
271 seq.) of Title 63.2 or after such license has been revoked or has expired and not been renewed.

272 B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18
273 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a
274 reckless disregard for human life is guilty of a Class 6 felony.

275 2. If a prosecution under this subsection is based solely on the accused parent having left the child at
276 a hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a
277 parent under this subsection that such parent safely delivered the child *within the first 30 days of the*
278 *child's life to (i) a hospital that provides 24-hour emergency services or to, (ii) an attended emergency*
279 *medical services agency that employs emergency medical services personnel, within the first 14 days of*
280 *the child's life or (iii) a newborn safety device located at and operated by such hospital or emergency*
281 *medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a*
282 *manner reasonably calculated to ensure the child's safety.*

283 C. Any parent, guardian, or other person having care, custody, or control of a minor child who in
284 good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and
285 practices of a recognized church or religious denomination shall not, for that reason alone, be considered
286 in violation of this section.

287 **§ 40.1-103. Cruelty and injuries to children; penalty; abandoned infant.**

288 A. It shall be unlawful for any person employing or having the custody of any child willfully or
289 negligently to cause or permit the life of such child to be endangered or the health of such child to be
290 injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life,
291 health or morals may be endangered, or to cause or permit such child to be overworked, tortured,
292 tormented, mutilated, beaten or cruelly treated. Any person violating this section is guilty of a Class 6
293 felony.

294 B. If a prosecution under this section is based solely on the accused parent having left the child at a
295 hospital or emergency medical services agency, it shall be an affirmative defense to prosecution of a
296 parent under this section that such parent safely delivered the child *within the first 30 days of the child's*
297 *life to (i) a hospital that provides 24-hour emergency services or to, (ii) an attended emergency medical*
298 *services agency that employs emergency medical services personnel, within the first 14 days of the*
299 *child's life or (iii) a newborn safety device located at and operated by such hospital or emergency*
300 *medical services agency. In order for the affirmative defense to apply, the child shall be delivered in a*

301 manner reasonably calculated to ensure the child's safety.

302 **§ 63.2-100. Definitions.**

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

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

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

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

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

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

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

332 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
 333 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
 334 defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who
 335 the parent or other person responsible for his care knows has been convicted of an offense against a
 336 minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

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

340 If a civil proceeding under this title is based solely on the parent having left the child at a hospital
 341 or emergency medical services agency, it shall be an affirmative defense that such parent safely
 342 delivered the child *within 30 days of the child's birth* to (i) a hospital that provides 24-hour emergency
 343 services ~~or to~~, (ii) an attended emergency medical services agency that employs emergency medical
 344 services providers, ~~within 14 days of the child's birth~~ or (iii) a newborn safety device located at and
 345 operated by such hospital or emergency medical services agency. For purposes of terminating parental
 346 rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected
 347 child upon the ground of abandonment.

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

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

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

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

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

373 "Adult foster care" means room and board, supervision, and special services to an adult who has a
 374 physical or mental condition. Adult foster care may be provided by a single provider for up to three
 375 adults. "Adult foster care" does not include services or support provided to individuals through the
 376 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9.

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

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

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

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

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

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

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

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

414 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
 415 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
 416 and meets the eligibility criteria set forth in § 63.2-919.

417 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
 418 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
 419 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
 420 parents with the process of delegating parental and legal custodial powers of their children pursuant to
 421 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
 422 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title

423 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
424 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

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

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

433 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent
434 foster home.

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

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

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

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

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

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

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

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

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

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

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

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

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

477 "Foster home" means a residence approved by a child-placing agency or local board in which any
478 child, other than a child by birth or adoption of such person or a child who is the subject of a power of
479 attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural
480 person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of
481 Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours
482 without compensation, resides as a member of the household.

483 "General relief" means money payments and other forms of relief made to those persons mentioned

484 in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with
485 § 63.2-401.

486 "Independent foster home" means a private family home in which any child, other than a child by
487 birth or adoption of such person, resides as a member of the household and has been placed therein
488 independently of a child-placing agency except (i) a home in which are received only children related by
489 birth or adoption of the person who maintains such home and children of personal friends of such
490 person; (ii) a home in which is received a child or children committed under the provisions of
491 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
492 (iii) a home in which are received only children who are the subject of a properly executed power of
493 attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

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

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

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

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

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

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

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

527 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
528 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
529 acting as the child's foster parent.

530 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
531 between a child and an adult relative of the child who has formerly acted as the child's foster parent that
532 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
533 relative of the child of the authority necessary to ensure the protection, education, care and control, and
534 custody of the child and the authority for decision making for the child.

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

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

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

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

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

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

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

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

558 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
559 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
560 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
561 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
562 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
563 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
564 outreach with the child's family members, including efforts to maintain connections between the child
565 and his siblings and other family; documents and maintains records of such outreach efforts; and
566 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
567 appropriate and in the best interest of the child, facilitates participation by family members in the child's
568 treatment program before and after discharge and documents the manner in which such participation is
569 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
570 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
571 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
572 any child placed in the program receive an assessment within 30 days of such placement by a qualified
573 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
574 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
575 identifies whether the needs of the child can be met through placement with a family member or in a
576 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
577 residential treatment program, that would provide the most effective and appropriate level of care for the
578 child in the least restrictive environment and be consistent with the short-term and long-term goals
579 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
580 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
581 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
582 16.1-282.1, or 16.1-282.2.

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

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

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

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

597 "State-Funded Kinship Guardianship Assistance program" means a program that provides payments to
598 eligible individuals who have received custody of a relative child subject to a kinship guardianship
599 assistance agreement developed in accordance with § 63.2-1306.

600 "Supervised independent living setting" means the residence of a person 18 years of age or older
601 who is participating in the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of
602 Chapter 9 where supervision includes a monthly visit with a service worker or, when appropriate,
603 contracted supervision. "Supervised independent living setting" does not include residential facilities or
604 group homes.

605 "Temporary Assistance for Needy Families" or "TANF" means the program administered by the

606 Department through which a relative can receive monthly cash assistance for the support of his eligible
607 children.
608 "Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the
609 Temporary Assistance for Needy Families program for families in which both natural or adoptive
610 parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education
611 and Work (VIEW) participation under § 63.2-609.
612 "Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social
613 Security Act, as amended, and administered by the Department through which foster care is provided on
614 behalf of qualifying children.