

23102037D

HOUSE BILL NO. 1450

House Amendments in [] - February 6, 2023

A *BILL to amend and reenact §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia, relating to individuals with disabilities; terminology.*

Patron Prior to Engrossment—Delegate Orrock

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1159, 3.2-6588, 10.1-200.3, 15.2-1805, 15.2-2025, 15.2-2306, 15.2-5201, 15.2-5301, 15.2-5369, 15.2-6314.1, 20-163, 22.1-101.1, 22.1-183, 22.1-213, 22.1-214.3, 22.1-270, 22.1-290.02, 23.1-1000, 23.1-2400, 25.1-400, 29.1-314, 32.1-78, 33.2-613, 36-96.1:1, 36-98.1, 36-99, 38.2-3323, 38.2-3409, 46.2-100, 46.2-221, 46.2-844, 46.2-859, 46.2-917, 46.2-1090, 46.2-1503.2, 51.1-124.27, 51.5-40.1, 54.1-2968, 58.1-609.10, 58.1-2401, 58.1-3210, 58.1-3213.1, 58.1-3503, 58.1-3506, 58.1-3506.1, 58.1-3506.6, 58.1-3833, 58.1-3840, 58.1-4024, 63.2-100, 63.2-319, 63.2-1301, 63.2-1302, and 64.2-745 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1159. Facilities for persons with physical disabilities in certain buildings; definitions; construction standards; waiver; temporary buildings.

A. For the purposes of this section and § 2.2-1160:

"Building" means any building or facility, used by the public, which is constructed in whole or in part or altered by the use of state, county or municipal funds, or the funds of any political subdivision of ~~this~~ the Commonwealth. "Building" shall not include public school buildings and facilities, which shall be governed by standards established by the Board of Education pursuant to § 22.1-138.

"Persons with physical disabilities" means persons with:

1. Impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs;

2. Impairments that cause individuals to walk with difficulty or insecurity;

3. Total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to dangers;

4. Deafness or hearing ~~handicaps~~ loss that might make an individual insecure in public areas because he is unable to communicate or hear warning signals;

5. Faulty coordination or palsy from brain, spinal, or peripheral nerve injury; or

6. Those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and perceptiveness but are not accounted for in the aforementioned categories.

B. The Division shall prescribe standards for the design, construction, and alteration of buildings constructed in whole or in part or altered by the use of state funds, other than school funds, necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings.

C. The governing body of a county, city or town or other political subdivision shall prescribe standards for the design, construction and alteration of buildings, not including public school facilities, constructed in whole or in part or altered by the use of the funds of such locality or political subdivision necessary to ensure that persons with physical disabilities will have ready access to, and use of, such buildings. The Division shall consult with the governing bodies upon request.

D. The Division, with respect to standards issued by it, and the governing body of any county, city or town or other political subdivision with respect to standards issued by it may:

1. Modify or waive any such standard, on a case-by-case basis, upon application made by the head of the department, agency or other instrumentality concerned, upon determining that a modification or waiver is clearly necessary; and

2. Conduct necessary surveys and investigations to ensure compliance with such standards.

E. The provisions of this section and § 2.2-1160 shall apply to temporary and emergency construction as well as permanent buildings.

§ 3.2-6588. Intentional interference with a guide or leader dog; penalty.

A. It is unlawful for a person to, without just cause, willfully impede or interfere with the duties

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59 performed by a dog if the person knows or has reason to believe the dog is a guide or leader dog. A
60 violation of this subsection is a Class 3 misdemeanor.

61 B. It is unlawful for a person to, without just cause, willfully injure a dog if the person knows or has
62 reason to believe the dog is a guide or leader dog. A violation of this subsection is a Class 1
63 misdemeanor.

64 "Guide or leader dog" means a dog that: (i) serves as a dog guide for a blind person as defined in
65 § 51.5-60 or for a person with a visual disability; (ii) serves as a listener for a deaf or hard-of-hearing
66 person as defined in § 51.5-111; or (iii) provides support or assistance for a ~~physically disabled or~~
67 ~~handicapped person~~ *an individual with a physical disability*.

68 **§ 10.1-200.3. Admittance and parking in state parks; prohibitions; civil penalty.**

69 A. No person shall make use of, gain admittance to, or attempt to use or gain admittance to the
70 facilities in any state park for the use of which a charge is assessed by the Department, unless the
71 person pays the charge or price established by the Department.

72 B. No owner or driver shall cause or permit a vehicle to stand:

73 1. Anywhere in a state park outside of designated parking spaces, except for a reasonable time in
74 order to receive or discharge passengers; or

75 2. In any space in a state park designated for use by ~~the handicapped individuals with disabilities~~
76 unless the vehicle displays a license plate or decal issued by the Commissioner of the Department of
77 Motor Vehicles, or a similar identification issued by a similar authority of another state or the District of
78 Columbia, ~~which that~~ authorizes parking in a ~~handicap~~ *space designated for use by individuals with*
79 *disabilities*.

80 C. Any person violating any provision of this section may, in lieu of any criminal penalty, be
81 assessed a civil penalty of ~~twenty-five dollars~~ \$25 by the Department. Civil penalties assessed under this
82 section shall be paid into the Conservation Resources Fund.

83 **§ 15.2-1805. Permitting individuals with visual impairments to operate stands for sale of**
84 **newspapers, etc.**

85 A locality, by ordinance or resolution, may authorize any ~~visually handicapped person~~ *individual with*
86 *a visual impairment* to construct, maintain and operate, under the supervision of the Virginia Department
87 for the Blind and Vision Impaired, in the county or city courthouse or in any other property of the
88 locality, a stand for the sale of newspapers, periodicals, confections, tobacco products and similar
89 articles and may prescribe rules for the operation of such stand.

90 **§ 15.2-2025. Removal of snow and ice; civil penalty.**

91 Notwithstanding the provisions of subsection A of § 15.2-2000, any county in Northern Virginia
92 Planning District 8, or any county outside Planning District 8 that has adopted the county executive
93 form of government, may provide by ordinance reasonable criteria and requirements for the removal of
94 accumulations of snow and ice from public sidewalks, by the owner or other person in charge of any
95 occupied property.

96 Such ordinance shall include reasonable time frames for compliance and reasonable exceptions for
97 ~~handicapped and individuals with disabilities~~, ~~elderly persons~~ *individuals*, and those otherwise physically
98 incapable of meeting the criteria and requirements for such removal.

99 Civil penalties not to exceed \$100 may be imposed for violation of such ordinance.

100 **§ 15.2-2306. Preservation of historical sites and architectural areas.**

101 A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as
102 established by the Virginia Board of Historic Resources, and any other buildings or structures within the
103 locality having an important historic, architectural, archaeological or cultural interest, any historic areas
104 within the locality as defined by § 15.2-2201, and areas of unique architectural value located within
105 designated conservation, rehabilitation or redevelopment districts, amending the existing zoning
106 ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and
107 structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or
108 highways (as designated pursuant to Title 33.2, including § 33.2-319 ~~of that title~~) found by the
109 governing body to be significant routes of tourist access to the locality or to designated historic
110 landmarks, buildings, structures or districts therein or in a contiguous locality. A governing body may
111 provide in the ordinance that the applicant must submit documentation that any development in an area
112 of the locality of known historical or archaeological significance will preserve or accommodate the
113 historical or archaeological resources. An amendment of the zoning ordinance and the establishment of a
114 district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) ~~of this~~
115 ~~chapter~~. The governing body may provide for a review board to administer the ordinance and may
116 provide compensation to the board. The ordinance may include a provision that no building or structure,
117 including signs, shall be erected, reconstructed, altered or restored within any such district unless
118 approved by the review board or, on appeal, by the governing body of the locality as being
119 architecturally compatible with the historic landmarks, buildings or structures therein.

120 2. Subject to the provisions of subdivision 3 ~~of this subsection~~ the governing body may provide in

the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of ~~this subsection~~ and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within ~~thirty~~ 30 days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of ~~this subsection~~, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and ~~twelve~~ 12 months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

The authority to enter into contracts with any person, firm or corporation as stated above may include the creation, by ordinance, of a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality. Any leases or contracts entered into under this provision shall require that all maintenance and improvement be conducted in accordance with established treatment standards for historic landmarks, areas, buildings, and structures. For purposes of this section, leases or contracts that preserve historic landmarks, buildings, structures, or areas are deemed to be consistent with the purposes of use, observation, education, pleasure, and welfare of the people as stated above so long as the lease or contract provides

182 for reasonable public access consistent with the property's nature and use. The Department of Historic
183 Resources shall provide technical assistance to local governments, at their request, to assist in
184 developing resident curator programs.

185 B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no
186 approval of any governmental agency or review board shall be required for the construction of a ramp
187 to serve ~~the handicapped individuals with disabilities~~ at any structure designated pursuant to the
188 provisions of this section.

189 C. Any locality that establishes or expands a local historic district pursuant to this section shall
190 identify and inventory all landmarks, buildings, or structures in the areas being considered for inclusion
191 within the proposed district. Prior to adoption of an ordinance establishing or expanding a local historic
192 district, the locality shall (i) provide for public input from the community and affected property owners
193 in accordance with § 15.2-2204; (ii) establish written criteria to be used to determine which properties
194 should be included within a local historic district; and (iii) review the inventory and the criteria to
195 determine which properties in the areas being considered for inclusion within the proposed district meet
196 the criteria to be included in a local historic district. Local historic district boundaries may be adjusted
197 to exclude properties along the perimeter that do not meet the criteria. The locality shall include only
198 the geographical areas in a local historic district where a majority of the properties meet the criteria
199 established by the locality in accordance with this section. However, parcels of land contiguous to
200 arterial streets or highways found by the governing body to be significant routes of tourist access to the
201 locality or to designated historic landmarks, buildings, structures, or districts therein, or in a contiguous
202 locality may be included in a local historic district notwithstanding the provisions of this subsection.

203 D. Any locality utilizing the urban county executive form of government may include a provision in
204 any ordinance adopted pursuant to this section that would allow public access to any such historic area,
205 landmark, building, or structure, or land pertaining thereto, or providing that no subdivision shall occur
206 within any historic district unless approved by the review board or, on appeal, by the governing body of
207 the locality as being compatible with the historic nature of such area, landmarks, buildings, or structures
208 therein with regard to any parcel or parcels that collectively are (i) adjacent to a navigable river and a
209 national park and (ii) in part or as a whole subject to an easement granted to the National Park Service
210 or Virginia Outdoors Foundation granted on or after January 1, 1973.

211 **§ 15.2-5201. Definitions.**

212 As used in this chapter:

213 "Bond" includes any interest-bearing obligation, including promissory notes.

214 "Hospital or health center" means any and all medical facilities and approaches thereto and
215 appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing
216 hospital and medical care, including any and all structures, buildings, improvements, additions,
217 extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment,
218 furnishing, landscaping, approaches, roadways and other facilities necessary or desirable in connection
219 therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living
220 facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient
221 surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities,
222 sanitariums, hospices, facilities for the residence or care of ~~the elderly, the handicapped or the~~
223 ~~chronically ill individuals or individuals with disabilities~~, residential facilities for nurses, interns, and
224 physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or
225 palliation of any human illness, injury, disorder, or disability), together with all related and supporting
226 facilities and equipment necessary and desirable in connection therewith or incidental thereto, or
227 equipment alone, including, without limitation, kitchen, laundry, laboratory, pharmaceutical,
228 administrative, communications, computer and recreational facilities and equipment, storage space,
229 mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of
230 medical equipment or the transportation of patients.

231 **§ 15.2-5301. Definitions.**

232 As used ~~or referred to~~ in this chapter, unless *the context requires* a different meaning ~~clearly appears~~
233 ~~from the context~~:

234 "Authority" or "hospital authority" means a body corporate organized in accordance with the
235 provisions of this chapter for the purposes, with the powers and subject to the restrictions hereinafter set
236 forth.

237 "Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority
238 issued pursuant to this chapter.

239 "City," means both cities and counties, and city-specific terms such as "mayor" shall be deemed to
240 also include the equivalent county term.

241 "Commissioner" means one of the members of an authority appointed in accordance with the
242 provisions of this chapter.

243 "Contract" means any agreement of an authority with or for the benefit of an obligee whether

contained in a resolution, trust indenture, mortgage, lease, bond or other instrument.

"Cost," as applied to a hospital project, means all or any part of the cost of acquisition, construction, alteration, enlargement, reconstruction and remodeling of a hospital project, including all lands, structures, real or personal property, interest in land and air rights, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds prior to, during and for a period of time not to exceed two years after completion, provisions for working capital, the cost of architectural engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing the hospital project and such other expenses as may be necessary or incidental to the acquisition and construction of such project, the financing of such acquisition and construction and the placing of the project in operation.

"Federal government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

"Government" means the Commonwealth and the federal government and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

"Hospital project" or "project" means any and all medical facilities and approaches thereto and appurtenances thereof. Medical facilities shall include any and all facilities suitable for providing adequate hospital facilities and medical care for concentrated centers of population, and also includes any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, franchises, machinery, equipment, furnishings, landscaping, approaches, roadways and other facilities necessary or desirable in connection therewith or incidental thereto, including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, medical office facilities, clinics, out-patient surgical centers, alcohol, substance abuse and drug treatment centers, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly; ~~the handicapped or the chronically ill~~ *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention or palliation of any human illness, injury, disorder, or disability; together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto; or equipment alone, including, without limitation, parking facilities, kitchen, laundry, laboratory, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles, and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a hospital project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America when it is a party to any contract with the authority.

"Real property" includes lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgments, mortgage or otherwise.

"Trust indenture" includes instruments pledging the revenues of real or personal properties but not conveying such properties or conferring a right to foreclose and cause a sale thereof.

§ 15.2-5369. Definitions.

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

"Authority" means any political subdivision, a body politic and corporate, created, organized, and operated pursuant to the provisions of this chapter or, if such Authority is abolished, the board, body, authority, department, or officer succeeding to the principal functions thereof or to whom the powers given by this chapter are given by law.

"Bond" includes any interest bearing obligation, including promissory notes.

"Commissioner" means the State Health Commissioner.

"Cooperative agreement" means an agreement among two or more hospitals for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services, and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals.

"Hospital" includes any health center and health provider under common ownership with the hospital and means any and all providers of dental, medical, and mental health services, including all related facilities and approaches thereto and appurtenances thereof. Dental, medical, and mental health facilities includes any and all facilities suitable for providing hospital, dental, medical, and mental health care, including any and all structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in lands, franchises, machinery, equipment, furnishing, landscaping,

approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto (including, without limitation, hospitals, nursing homes, assisted living facilities, continuing care facilities, self-care facilities, mental health facilities, wellness and health maintenance centers, medical office facilities, clinics, outpatient surgical centers, alcohol, substance abuse and drug treatment centers, dental care clinics, laboratories, research facilities, sanitariums, hospices, facilities for the residence or care of the elderly, the handicapped or the chronically ill *individuals or individuals with disabilities*, residential facilities for nurses, interns, and physicians and any other kind of facility for the diagnosis, treatment, rehabilitation, prevention, or palliation of any human illness, injury, disorder, or disability), together with all related and supporting facilities and equipment necessary and desirable in connection therewith or incidental thereto, or equipment alone, including, without limitation, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer and recreational facilities and equipment, storage space, mobile medical facilities, vehicles and other equipment necessary or desirable for the transportation of medical equipment or the transportation of patients. Dental, medical, and mental health facilities also includes facilities for graduate-level instruction in medicine or dentistry and clinics appurtenant thereto offering free or reduced rate dental, medical, or mental health services to the public.

"Participating locality" means any county or city in the LENOWISCO or Cumberland Plateau Planning District Commissions and the Counties of Smyth and Washington and the City of Bristol with respect to which an authority may be organized and in which it is contemplated that the Authority will function.

§ 15.2-6314.1. Applicability of the Virginia Personnel Act and the Virginia Public Procurement Act.

A. Employees of an authority created by a locality shall be exempt from the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) if (i) the locality has personnel policies and procedures that are consistent with the goals, objectives, and policies of the Virginia Personnel Act; and (ii) such authority adopts the locality's personnel policies and procedures. In any event, personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political affiliation.

B. Any authority created under this chapter shall be subject to the terms of the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the foregoing, should the ~~United States~~ *U.S.* Department of Defense place a federal area on a list of installations to be closed or realigned under the authority granted to the ~~United States~~ *U.S.* Department of Defense pursuant to the federal Defense Base Closure And Realignment Act of 1990 (~~United States Public Law~~ *P.L.* 101-501, as amended through the National Defense Authorization Act of Fiscal Year 2003), and such federal area is subject to the jurisdiction of an authority created by a locality, such listing of that installation shall qualify as an "emergency" under subsection F of § 2.2-4303 of the Virginia Public Procurement Act.

§ 20-163. Miscellaneous provisions related to all surrogacy contracts.

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her spouse shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parent shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical ~~handicap~~ *disability*, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parent as the parent of the resulting child after receipt of such order or copy of the contract.

F. Any contract provision requiring or prohibiting an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

§ 22.1-101.1. Increase of funds for certain nonresident students; how increase computed and paid; billing of out-of-state placing agencies or persons.

A. To the extent such funds are appropriated by the General Assembly, a school division shall be

reimbursed for the cost of educating a child who is not a child with disabilities and who is not a resident of such school division under the following conditions:

1. When such child has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

B. To the extent such funds are appropriated by the General Assembly, a school division shall be reimbursed for the cost of educating a child with disabilities who is not a resident of such school division under the following conditions:

1. When the child with disabilities has been placed in foster care or other custodial care within the geographical boundaries of the school division by a Virginia agency, whether state or local, which is authorized under the laws of ~~this~~ *the* Commonwealth to place children;

2. When such child with disabilities has been placed within the geographical boundaries of the school division in an orphanage or children's home which exercises legal guardianship rights; or

3. When such child with disabilities, who is a resident of Virginia, has been placed, not solely for school purposes, in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 which is located within the geographical boundaries of the school division.

C. Each school division shall keep an accurate record of the number of days which any child, identified in subsection A or B ~~above~~, was enrolled in its public schools, the required local expenditure per child, the ~~handicapping condition~~ *specific disability*, if applicable, the placing agency or person and the jurisdiction from which the child was sent. Each school division shall certify this information to the Board of Education by July 1 following the end of the school year in order to receive proper reimbursement. No school division shall charge tuition to any such child.

D. When a child who is not a resident of Virginia, whether ~~disabled~~ or not *such child has a disability*, has been placed by an out-of-state agency or a person who is the resident of another state in foster care or other custodial care or in a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 located within the geographical boundaries of the school division, the school division shall not be reimbursed for the cost of educating such child from funds appropriated by the General Assembly. The school division in which such child has been enrolled shall bill the sending agency or person for the cost of the education of such child as provided in subsection C of § 22.1-5.

The costs of the support and maintenance of the child shall include the cost of the education provided by the school division; therefore, the sending agency or person shall have the financial responsibility for the educational costs for the child pursuant to Article V of the Interstate Compact on the Placement of Children as set forth in Chapters 10 (§ 63.2-1000 et seq.) and 11 (§ 63.2-1100 et seq.) of Title 63.2. Upon receiving the bill for the educational costs from the school division, the sending agency or person shall reimburse the billing school division for providing the education of the child. Pursuant to Article III of the Interstate Compact on the Placement of Children, no sending agency or person shall send, bring, or cause to be sent or brought into ~~this~~ *the* Commonwealth any child for placement unless the sending agency or person has complied with this section by honoring the financial responsibility for the educational cost as billed by a local school division.

E. To the extent that state funds appropriated by the General Assembly pursuant to subsection A or B or other state funds, such as those provided on the basis of average daily membership, do not cover the full cost of educating a child pursuant to this subsection, a school division shall be reimbursed by (i) the school division in which a child's custodial parent or guardian resides or (ii) in the case of a child who has been placed in the custody of the Department of Social Services, the school division in which the parent or guardian who had custody immediately preceding the placement resides, for any remaining costs of educating such child, whether ~~disabled~~ or not *such child has a disability*, who has been placed, not solely for school purposes, in (a) foster care or other custodial care within the geographical boundaries of the school division to be reimbursed, or (b) a child-caring institution or group home licensed under the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 that is located within the geographical boundaries of the school division to be reimbursed.

§ 22.1-183. When warning lights and identification to be covered.

It ~~shall be~~ *is* unlawful for a school bus licensed in ~~this~~ *the* Commonwealth to be operated on the public highways of ~~this~~ *the* Commonwealth for the purpose of transporting persons or commodities other than school personnel, school children ~~or~~, elderly *individuals*, or ~~mentally or physically handicapped~~

428 ~~persons~~ *individuals with mental or physical disabilities* unless the lettered identification and school bus
429 traffic warning lights on the front and rear of such bus are covered with some opaque detachable
430 material. This section shall not apply to any such bus when operated by a salesman or demonstrator in
431 connection with a prospective sale or delivery of a bus.

432 **§ 22.1-213. Definitions.**

433 As used in this article:

434 "Children with disabilities" means those persons (i) who are age two to 21, inclusive, having reached
435 the age of two by the date specified in § 22.1-254; (ii) who have intellectual disability or serious
436 emotional disturbance, are physically disabled, speech impaired, deaf or hard of hearing, visually
437 impaired, or multiple disabled, are otherwise health impaired, including those who have autism spectrum
438 disorder or a specific learning disability, or are otherwise disabled as defined by the Board of Education;
439 and (iii) who because of such impairments need special education.

440 "Related services" means transportation and such developmental, corrective, and other supportive
441 services as are required to assist a ~~disabled~~ *child with a disability* to benefit from special education,
442 including speech pathology and audiology, psychological services, physical and occupational therapy,
443 recreation, early identification and assessment of disabilities in children, counseling services, and medical
444 services for diagnostic or evaluation purposes. "Related services" also includes school health services,
445 social work services in schools, and parent counseling and training.

446 "Special education" means specially designed instruction at no cost to the parent to meet the unique
447 needs of a ~~disabled~~ *child with a disability*, including classroom instruction, home instruction, instruction
448 provided in hospitals and institutions, instruction in physical education, and instruction in career and
449 technical education.

450 "Specific learning disability" means a disorder in one or more of the basic psychological processes
451 involved in understanding or using language, spoken or written, which may manifest itself in an
452 imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. "Specific
453 learning disability" does not include children who have learning problems that are primarily the result of
454 visual, hearing, ~~or~~ motor ~~handicaps~~, ~~or~~ intellectual disability, or of environmental, cultural, or
455 economic disadvantage.

456 **§ 22.1-214.3. Department to develop certain curriculum guidelines; Board to approve.**

457 The Department of Education shall develop curricula for the school-age individuals in state training
458 centers and curriculum guidelines for the school-age individuals in state hospitals operated by the
459 Department of Behavioral Health and Developmental Services in cooperation with the Department of
460 Behavioral Health and Developmental Services and representatives of the teachers employed to provide
461 instruction to the children. Prior to implementation, the Board of Education shall approve these curricula
462 and curriculum guidelines.

463 These curricula and curriculum guidelines shall be designed to provide a range of programs and
464 suggested program sequences for different functioning levels and ~~handicaps~~ *disabilities* and shall be
465 reviewed and revised at least every three years. In addition to academic programming, the curriculum
466 guidelines for the school-age individuals in state hospitals operated by the Department of Behavioral
467 Health and Developmental Services shall include affective education and physical education as well as
468 independent living and career and technical education, with particular emphasis on the needs of older
469 adolescents and young adults.

470 **§ 22.1-270. Preschool physical examinations.**

471 A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a
472 school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed
473 physician, or a licensed nurse practitioner or licensed physician assistant acting under the supervision of
474 a licensed physician, of a comprehensive physical examination of a scope prescribed by the State Health
475 Commissioner performed within the 12 months prior to the date such pupil first enters such public
476 kindergarten or elementary school or (ii) records establishing that such pupil furnished such report upon
477 prior admission to another school or school division and providing the information contained in such
478 report.

479 If the pupil is a homeless child or youth as defined in subdivision A 7 of § 22.1-3, and for that
480 reason cannot furnish the report or records required by *clause* (i) or (ii) of this subsection, and the
481 person seeking to enroll the pupil furnishes to the school division an affidavit so stating and also
482 indicating that, to the best of his knowledge, such pupil is in good health and free from any
483 communicable or contagious disease, the school division shall immediately refer the student to the local
484 school division liaison, as described in Subtitle VII-B of the federal McKinney-Vento Homeless
485 Assistance Act, as amended (42 U.S.C. § 11431 et seq.) (the Act), who shall, as soon as practicable,
486 assist in obtaining the necessary physical examination by the county or city health department or other
487 clinic or physician's office and shall immediately admit the pupil to school, as required by such Act.

488 B. The physician, or licensed nurse practitioner or licensed physician assistant acting under the
489 supervision of a licensed physician, making a report of a physical examination required by this section

shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as ~~handicapped~~ *having a disability*.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent shall object on religious grounds and who shows no visual evidence of sickness, provided that such parent shall state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. Parents of entering students shall complete a health information form which shall be distributed by the local school divisions. Such forms shall be developed and provided jointly by the Department of Education and Department of Health, or developed and provided by the school division and approved by the Superintendent of Public Instruction. Such forms shall be returnable within 15 days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent to complete such form within the extended time, the superintendent may send to the parent written notice of the date he intends to exclude the child from school; however, no child who is a homeless child or youth as defined in subdivision A 7 of § 22.1-3 shall be excluded from school for such failure to complete such form.

§ 22.1-290.02. Traineeships for education of special education personnel.

A. There are hereby established traineeships that shall be awarded to persons who are interested in working in programs for the education of ~~handicapped~~ *children with disabilities* for either part-time or full-time study in programs designed to qualify them as special education personnel in the public schools. Applicants for such traineeships shall be graduates of a recognized institution of higher education.

B. The award of such traineeships shall be made by the State Board, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be \$450 for a minimum of six semester hours of course work in areas relating to special education to be taken by the applicant during a single semester or summer session.

C. This program shall be administered by the Department of Education under rules and regulations promulgated by the State Board.

§ 23.1-1000. Definitions.

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

"Bonds, notes, or other obligations" means bonds, notes, commercial paper, bond anticipation notes, revenue certificates, capital leases, lease participation certificates, or other evidences of indebtedness or deferred purchase financing arrangements.

"Capital project" means the acquisition of any interest in land, including (i) capital leases and (ii) improvements on the acquired land consisting of (a) new construction of at least 5,000 square feet, (b) new construction costing at least \$2 million, or (c) improvements or renovations costing at least \$2 million.

"Covered employee" means any individual who is employed by a covered institution on either a salaried or wage basis.

"Covered institution" means a public institution of higher education that has entered into a management agreement with the Commonwealth to be governed by the provisions of Article 4 (§ 23.1-1004 et seq.).

"Enabling statutes" means each chapter in Subtitle IV (§ 23.1-1300 et seq.), and in the case of the University of Virginia Medical Center §§ 2.2-2817.2, 2.2-2905, 51.1-126.3, and 51.1-1100, creating, continuing, or otherwise setting forth the powers, duties, purposes, and missions of each individual public institution of higher education unless otherwise expressly provided in this chapter.

"Facilities" means all (i) real, personal, tangible, and intangible property, including all (a) infrastructure suitable for supporting a covered institution's mission and ancillary activities and (b) structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities held, possessed, owned, leased, operated, or used, in whole or in part, by a covered institution and (ii) rights in such property.

"Includes" has the same meaning as provided in § 1-218.

"Management agreement" means an agreement between the Commonwealth and a public institution of higher education that enables such institution to be governed by Article 4 (§ 23.1-1004 et seq.).

551 "Participating covered employee" includes (i) all salaried nonfaculty covered employees who were
552 employed by the covered institution on the day prior to the effective date of the initial management
553 agreement and elect pursuant to § 23.1-1022 to participate in and be governed by the program, plans,
554 policies, and procedures established by the institution pursuant to Article 4 (§ 23.1-1004 et seq.); (ii) all
555 salaried nonfaculty covered employees who are employed by the covered institution on or after the
556 effective date of the initial management agreement; (iii) all nonsalaried nonfaculty covered employees of
557 the covered institution without regard to when they were hired; (iv) all faculty covered employees of the
558 covered institution without regard to when they were hired; and (v) all employees of the University of
559 Virginia Medical Center without regard to when they were hired.

560 "Project" means (i) any research program, research facility, or educational facility of a covered
561 institution or equipment necessary or convenient to or consistent with the purposes of such institution,
562 whether or not owned by the institution, including (a) research, training, teaching, dormitory, and
563 classroom facilities and all related and supporting facilities and equipment necessary or desirable in
564 connection with such facilities or incidental to such facilities; (b) office, parking, kitchen, laundry,
565 laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational and
566 athletics facilities; (c) hotels and related facilities; (d) power plants and equipment; (e) storage space; (f)
567 hospitals; (g) nursing homes; (h) continuing care facilities; (i) self-care facilities; (j) health maintenance
568 centers; (k) medical office facilities; (l) clinics; (m) outpatient clinics; (n) surgical centers; (o) alcohol,
569 substance abuse, and drug treatment centers; (p) sanitariums; (q) hospices; (r) facilities for the residence
570 or care of the elderly, ~~handicapped~~, or chronically ill *individuals or individuals with disabilities*; (s)
571 residential facilities for nurses, interns, and physicians; (t) other facilities for the treatment of sick,
572 disturbed, or infirm individuals, the prevention of disease, or the maintenance of health; (u) colleges,
573 schools, or divisions offering undergraduate, graduate, professional, or extension programs, or any
574 combination of such programs, for such courses of study as may be appropriate; (v) vehicles, mobile
575 medical facilities, and other transportation equipment; and (w) air transport equipment, including
576 equipment necessary or desirable for the transportation of medical equipment, medical personnel, or
577 patients; and (ii) all lands, buildings, improvements, approaches, and appurtenances necessary or
578 desirable in connection with or incidental to any such program, facility, or equipment.

579 "Virginia Retirement System" includes any retirement system established or authorized by Title 51.1.

580 **§ 23.1-2400. Definitions.**

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

582 "Authority" means the Virginia Commonwealth University Health System Authority.

583 "Board" means the board of directors of the Authority.

584 "Bonds" means bonds, notes, revenue certificates, lease participation certificates, or other evidences
585 of indebtedness or deferred purchase financing arrangements.

586 "Chief executive officer" means the chief executive officer of the Virginia Commonwealth University
587 Health System Authority.

588 "Costs" means (i) costs of (a) construction, reconstruction, renovation, site work, and acquisition of
589 lands, structures, rights-of-way, franchises, easements, and other property rights and interests; (b)
590 demolition, removal, or relocation of buildings or structures; (c) labor, materials, machinery, and all
591 other kinds of equipment; (d) engineering and inspections; (e) financial, legal, and accounting services;
592 (f) plans, specifications, studies, and surveys; (g) estimates of costs and of revenues; (h) feasibility
593 studies; and (i) issuance of bonds, including printing, engraving, advertising, legal, and other similar
594 expenses; (ii) financing charges; (iii) administrative expenses, including administrative expenses during
595 the start-up of any project; (iv) credit enhancement and liquidity facility fees; (v) fees for interest rate
596 caps, collars, swaps, or other financial derivative products; (vi) interest on bonds in connection with a
597 project prior to and during construction or acquisition thereof and for a period not exceeding one year
598 thereafter; (vii) provisions for working capital to be used in connection with any project; (viii)
599 redemption premiums, obligations purchased to provide for the payment of bonds being refunded, and
600 other costs necessary or incident to refunding of bonds; (ix) operating and maintenance reserve funds,
601 debt reserve funds, and other reserves for the payment of principal and interest on bonds; (x) all other
602 expenses necessary, desirable, or incidental to the operation of the Authority's facilities or the
603 construction, reconstruction, renovation, acquisition, or financing of projects, other facilities, or
604 equipment appropriate for carrying out the purposes of this chapter and the placing of the same in
605 operation; or (xi) the refunding of bonds.

606 "Hospital facilities" means all property or rights in property, real and personal, tangible and
607 intangible, including all facilities suitable for providing hospital and health care services and all
608 structures, buildings, improvements, additions, extensions, replacements, appurtenances, lands, rights in
609 land, furnishings, landscaping, approaches, roadways, and other related and supporting facilities owned,
610 leased, operated, or used, in whole or in part, by Virginia Commonwealth University as part of, or in
611 connection with, MCV Hospitals in the normal course of its operations as a teaching, research, and
612 medical treatment facility.

"Hospital obligations" means all debts or other obligations, contingent or certain, owing to any person or other entity on the transfer date, arising out of the operation of MCV Hospitals as a medical treatment facility or the financing or refinancing of hospital facilities and including all bonds and other debts for the purchase of goods and services, whether or not delivered, and obligations for the delivery of services, whether or not performed.

"Project" means any health care, research, or educational facility or equipment necessary or convenient to or consistent with the purposes of the Authority, whether owned by the Authority, including hospitals; nursing homes; continuing care facilities; self-care facilities; wellness and health maintenance centers; medical office facilities; clinics; outpatient clinics; surgical centers; alcohol, substance abuse, and drug treatment centers; laboratories; sanitariums; hospices; facilities for the residence or care of the elderly; ~~the handicapped~~, or the chronically ill *individuals or individuals with disabilities*; residential facilities for nurses, interns, and physicians; other kinds of facilities for the treatment of sick, disturbed, or infirm individuals, the prevention of disease, or maintenance of health; colleges, schools, or divisions offering undergraduate or graduate programs for the health professions and sciences and such other courses of study as may be appropriate, together with research, training, and teaching facilities; all necessary or desirable related and supporting facilities and equipment or equipment alone, including (i) parking, kitchen, laundry, laboratory, wellness, pharmaceutical, administrative, communications, computer, and recreational facilities; (ii) power plants and equipment; (iii) storage space; (iv) mobile medical facilities; (v) vehicles; (vi) air transport equipment; and (vii) other equipment necessary or desirable for the transportation of medical equipment, medical personnel, or patients; and all lands, buildings, improvements, approaches, and appurtenances necessary or desirable in connection with or incidental to any project.

"Transfer date" means a date or dates agreed to by the board of visitors of Virginia Commonwealth University and the Authority for the transfer of employees to the Authority and for the transfer of hospital facilities, or any parts thereof, to and the assumption, directly or indirectly, of hospital obligations by the Authority, which dates for the various transfers and the various assumptions may be different, but in no event shall any date be later than June 30, 1997.

"University" means Virginia Commonwealth University.

§ 25.1-400. Definitions.

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

"Business" means any lawful activity, except a farm operation, conducted primarily:

1. For the purchase, sale, lease and rental of personal and of real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

2. For the sale of services to the public;

3. By a nonprofit organization; or

4. Solely for the purposes of § 25.1-406, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Comparable replacement dwelling" means any dwelling that is (i) decent, safe and sanitary; (ii) adequate in size to accommodate the occupants; (iii) within the financial means of the displaced person; (iv) functionally equivalent; (v) in an area not subject to unreasonable adverse environmental conditions; and (vi) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"Decent, safe, and sanitary dwelling" means a dwelling that:

1. Is structurally sound, weather tight and in good repair;

2. Has a safe electrical wiring system adequate for lighting and appliances;

3. Contains a heating system capable of maintaining a healthful temperature;

4. Is adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced household;

5. Has a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains sink, toilet, and bathing facilities (shower or bath, or both), all operational and connected to a functional water and sewer disposal system;

6. Provides unobstructed egress to safe open space at ground level. If the unit is above the first floor and served by a common corridor, there must be two means of egress; and

7. Is free of barriers to egress, ingress, and use by a displaced person ~~who is handicapped~~ *with a disability*.

"Displaced person" means:

1. Any person who moves from real property, or moves his personal property from real property (i) as a direct result of a written notice of intent to acquire or the acquisition of such real property, in whole or in part, for any program or project undertaken by a state agency or (ii) on which such person

674 is a residential tenant or conducts a small business, a farm operation or a business described in clause 4
675 of the definition of "business" in this section as a direct result of rehabilitation, demolition, or other
676 displacing activity as the state agency may prescribe, under a program or project undertaken by the state
677 agency in any case in which the state agency determines that such displacement is permanent;

678 2. Solely for the purposes of §§ 25.1-406, 25.1-407, and 25.1-411, any person who moves from real
679 property, or moves his personal property from real property: (i) as a direct result of a written notice of
680 intent to acquire or the acquisition of other real property, in whole or in part, on which such person
681 conducts a business or farm operation, for a program or project undertaken by a state agency or (ii) as a
682 direct result of rehabilitation, demolition, or other displacing activity as the state agency may prescribe,
683 of other real property on which such person conducts a business or farm operation, under a program or
684 project undertaken by the state agency in any case in which the state agency determines that such
685 displacement is permanent; and

686 3. Any person who moves or discontinues his business or moves other personal property, or moves
687 from his dwelling, as the direct result of (i) federally assisted activities for the enforcement of a building
688 code or other similar code or (ii) a program of rehabilitation or demolition of buildings conducted
689 pursuant to a federally assisted governmental program.

690 The term "displaced person" does not include (i) a person who has been determined, according to
691 criteria established by the state agency, to be either in unlawful occupancy of the displacement dwelling
692 or to have occupied such dwelling for the purpose of obtaining assistance under this chapter or (ii) in
693 any case where the state agency acquires property for a program or project, any person, other than a
694 person who was an occupant of the property at the time it was acquired, who occupies such property on
695 a rental basis for a short term or a period subject to termination when the property is needed for the
696 program or project.

697 "Dwelling" means the place of permanent or customary and usual residence of a person, according to
698 local custom or law, including a single-family house, a single family unit in a two-family, multi-family,
699 or multi-purpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping
700 unit; a mobile home; or any other residential unit.

701 "Farm operation" means any activity conducted solely or primarily for the production of one or more
702 agricultural products or commodities, including timber, for sale or home use, and customarily producing
703 such products or commodities in sufficient quantity to be capable of contributing materially to the
704 operator's support.

705 "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid
706 purchase price of, real property, together with the credit instruments, if any, secured thereby.

707 "Nonprofit organization" means an organization that is exempt from paying federal income taxes
708 under § 501 of the Internal Revenue Code (26 U.S.C. § 501).

709 "Person" means any (i) individual or (ii) partnership, corporation, limited liability company,
710 association, or other business entity.

711 "Uneconomic remnant" means a parcel of real property in which the owner is left with an interest
712 after the partial acquisition of the owner's property and which the state agency has determined has little
713 or no value or utility to the owner.

714 **§ 29.1-314. Special fishing permits for certain individuals with disabilities.**

715 A. Upon receipt of an application from an officer or designated representative of any organized
716 group of ~~physically or mentally handicapped persons~~ *individuals with physical or mental disabilities* who
717 meet on a regular basis, including students at schools for the blind or deaf, the Director may issue not
718 more than two permits of one day each, in any calendar year, to such group to fish without licenses in
719 public waters open to fishing. The permits shall not be issued for use in designated waters stocked with
720 trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318; however, a permit
721 may be issued to such group to fish without licenses on the second Saturday of May in designated
722 waters stocked with trout.

723 B. The application for the permit shall state the name and description of the group, the date upon
724 which it will be used, the general area in which it will be used, and the name of the person or
725 organization responsible for the group.

726 **§ 32.1-78. Reporting information about children with health problems or disabilities.**

727 Notwithstanding § 32.1-271 or any other law to the contrary, the Commissioner shall report to the
728 Superintendent of Public Instruction or to the appropriate school division superintendent within the
729 Commonwealth the identity of, and pertinent information about, children with health problems or
730 ~~handicapping conditions which disabilities that~~ *disabilities that* might affect the child's career in school and his need for
731 special education.

732 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**

733 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the
734 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth
735 without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
 2. Members of the Commonwealth Transportation Board;
 3. Employees of the Department of Transportation;
 4. The Superintendent of the Department of State Police;
 5. Officers and employees of the Department of State Police;
 6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
 7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
 8. The Commissioner of the Department of Motor Vehicles;
 9. Employees of the Department of Motor Vehicles;
 10. Local police officers;
 11. Sheriffs and their deputies;
 12. Regional jail officials;
 13. Animal wardens;
 14. The Director and officers of the Department of Wildlife Resources;
 15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
 16. Operators of school buses being used to transport pupils to or from schools;
 17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
 18. Employees of the Department of Rail and Public Transportation;
 19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.
1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
 2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.
 3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.
- C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.
- D. Any vehicle operated by the holder of a valid driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the highways shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:
1. The vehicle is specially equipped to permit its operation by a ~~handicapped person~~ *an individual with a disability*;
 2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as ~~being severely physically disabled~~ *having a severe physical disability* and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;
 3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and

797 4. Such identifying window sticker is properly displayed on the vehicle.

798 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the
799 Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by
800 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by
801 such persons.

802 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the
803 provisions of § 22.1-187.

804 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use
805 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or
806 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation
807 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the
808 conduct of official business:

- 809 1. The Commissioner of Highways;
- 810 2. Members of the Commonwealth Transportation Board;
- 811 3. Employees of the Department of Transportation;
- 812 4. The Superintendent of the Department of State Police;
- 813 5. Officers and employees of the Department of State Police;
- 814 6. The Commissioner of the Department of Motor Vehicles;
- 815 7. Employees of the Department of Motor Vehicles; and
- 816 8. Sheriffs and deputy sheriffs.

817 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B
818 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection
819 operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private
820 Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in
821 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent
822 with the terms of the applicable comprehensive agreement between the operator and the Department.
823 The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant
824 to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll
825 collections on other tolled facilities in the same affected area, whichever occurs first.

826 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in
827 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements
828 of subdivisions D 1 through 4.

829 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of
830 the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of
831 subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined
832 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

833 **§ 36-96.1:1. Definitions.**

834 For the purposes of this chapter, unless the context requires a different meaning:

835 "Aggrieved person" means any person who (i) claims to have been injured by a discriminatory
836 housing practice or (ii) believes that such person will be injured by a discriminatory housing practice
837 that is about to occur.

838 "Assistance animal" means an animal that works, provides assistance, or performs tasks for the
839 benefit of a person with a disability, or provides emotional support that alleviates one or more identified
840 symptoms or effects of a person's disability. Assistance animals perform many disability-related
841 functions, including guiding individuals who are blind or have low vision, alerting individuals who are
842 deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair,
843 fetching items, alerting persons to impending seizures, or providing emotional support to persons with
844 disabilities who have a disability-related need for such support. An assistance animal is not required to
845 be individually trained or certified. While dogs are the most common type of assistance animal, other
846 animals can also be assistance animals. An assistance animal is not a pet.

847 "Complainant" means a person, including the Fair Housing Board, who files a complaint under
848 § 36-96.9.

849 "Conciliation" means the attempted resolution of issues raised by a complainant, or by the
850 investigation of such complaint, through informal negotiations involving the aggrieved person, the
851 respondent, their respective authorized representatives and the Fair Housing Board.

852 "Conciliation agreement" means a written agreement setting forth the resolution of the issues in
853 conciliation.

854 "Disability" means, with respect to a person, (i) a physical or mental impairment that substantially
855 limits one or more of such person's major life activities; (ii) a record of having such an impairment; or
856 (iii) being regarded as having such an impairment. The term does not include current, illegal use of or
857 addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this
858 chapter, the terms "disability" and "handicap" shall be interchangeable.

"Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-96.5, or 36-96.6.

"Dwelling" means any building, structure, or portion thereof that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" includes any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Military status" means status as (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" includes any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Religion" includes any outward expression of religious faith, including adherence to religious dressing and grooming practices and the carrying or display of religious items or symbols.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, military status, or disability.

"Source of funds" means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

§ 36-98.1. State buildings; exception for certain assets owned by the Department of Transportation.

A. The Building Code shall be applicable to all state-owned buildings and structures, and to all buildings and structures built on state-owned property, with the exception that §§ 2.2-1159 through 2.2-1161 shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped individuals with physical disabilities.

Any state-owned building or structure, or building or structure built on state-owned property, for which preliminary plans were prepared or on which construction commenced after the initial effective

920 date of the Uniform Statewide Building Code, shall remain subject to the provisions of the Uniform
921 Statewide Building Code that were in effect at the time such plans were completed or such construction
922 commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be
923 subject to the pertinent provisions of the Building Code.

924 Acting through the Division of Engineering and Buildings, the Department of General Services shall
925 function as the building official for any state-owned buildings or structures and for all buildings and
926 structures built on state-owned property. The Department shall review and approve plans and
927 specifications, grant modifications, and establish such rules and regulations as may be necessary to
928 implement this section. It may provide for the (i) inspection of state-owned buildings or structures and
929 for all buildings and structures built on state-owned property and (ii) enforcement of the Building Code
930 and standards for access by ~~the physically handicapped~~ *individuals with physical disabilities* by
931 delegating inspection and Building Code enforcement duties to the State Fire Marshal's Office, to other
932 appropriate state agencies having needed expertise, and to local building departments, all of which shall
933 provide such assistance within a reasonable time and in the manner requested. State agencies and
934 institutions occupying buildings shall pay to the local building department the same fees as would be
935 paid by a private citizen for the services rendered when such services are requested by the Department
936 of General Services. The Department of General Services may alter or overrule any decision of the local
937 building department after having first considered the local building department's report or other rationale
938 given for its decision. When altering or overruling any decision of a local building department, the
939 Department of General Services shall provide the local building department with a written summary of
940 its reasons for doing so.

941 B. Notwithstanding the provisions of subsection A and § 27-99, roadway tunnels and bridges owned
942 by the Department of Transportation shall be exempt from the Building Code and the Statewide Fire
943 Prevention Code Act (§ 27-94 et seq.). The Department of General Services shall not have jurisdiction
944 over such roadway tunnels, bridges, and other limited access highways; provided, however, that the
945 Department of General Services shall have jurisdiction over any occupied buildings within any
946 Department of Transportation rights-of-way that are subject to the Building Code.

947 Roadway tunnels and bridges shall be designed, constructed, and operated to comply with fire safety
948 standards based on nationally recognized model codes and standards to be developed by the Department
949 of Transportation in consultation with the State Fire Marshal. Emergency response planning and
950 activities related to the standards shall be developed by the Department of Transportation and
951 coordinated with the appropriate local officials and emergency services providers. On an annual basis the
952 Department of Transportation shall provide a report on the maintenance and operability of installed fire
953 protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

954 C. Except as provided in subsection E of § 23.1-1016, and notwithstanding the provisions of
955 subsection A, at the request of a public institution of higher education, the Department, as further set
956 forth in this subsection, shall authorize that institution of higher education to contract with a building
957 official of the locality in which the construction is taking place to perform any inspection and
958 certifications required for the purpose of complying with the Uniform Statewide Building Code (§ 36-97
959 et seq.). The Department shall publish administrative procedures that shall be followed in contracting
960 with a building official of the locality. The authority granted to a public institution of higher education
961 under this subsection to contract with a building official of the locality shall be subject to the institution
962 meeting the conditions prescribed in subsection A of § 23.1-1002.

963 D. This section shall not apply to the nonhabitable structures, equipment, and wiring owned by a
964 public service company, a certificated provider of telecommunications services, or a franchised cable
965 operator that are built on rights-of-way owned or controlled by the Commonwealth Transportation
966 Board.

967 **§ 36-99. Provisions of Code; modifications.**

968 A. The Building Code shall prescribe building regulations to be complied with in the construction
969 and rehabilitation of buildings and structures, and the equipment therein as defined in § 36-97, and shall
970 prescribe regulations to ensure that such buildings and structures are properly maintained, and shall also
971 prescribe procedures for the administration and enforcement of such regulations, including procedures to
972 be used by the local building department in the evaluation and granting of modifications for any
973 provision of the Building Code, provided the spirit and functional intent of the Building Code are
974 observed and public health, welfare and safety are assured. The provisions of the Building Code and
975 modifications thereof shall be such as to protect the health, safety and welfare of the residents of the
976 Commonwealth, provided that buildings and structures should be permitted to be constructed,
977 rehabilitated and maintained at the least possible cost consistent with recognized standards of health,
978 safety, energy conservation and water conservation, including provisions necessary to prevent
979 overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for ~~the~~
980 ~~physically handicapped~~ *individuals with physical disabilities* and aged *individuals*. Such regulations shall
981 be reasonable and appropriate to the objectives of this chapter.

B. In formulating the Code provisions, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations, including, but not limited to, the standards of the International Code Council and the National Fire Protection Association. Notwithstanding the provisions of this section, farm buildings and structures shall be exempt from the provisions of the Building Code, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 and licensed as such by the Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

C. Where practical, the Code provisions shall be stated in terms of required level of performance, so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, such provisions shall provide for acceptance of materials and methods whose performance has been found by the local building department, on the basis of reliable test and evaluation data, presented by the proponent, to be substantially equal in safety to those specified.

D. The Board, upon a finding that sufficient allegations exist regarding failures noted in several localities of performance standards by either building materials, methods, or design, may conduct hearings on such allegations if it determines that such alleged failures, if proven, would have an adverse impact on the health, safety, or welfare of the citizens of the Commonwealth. After at least 21 days' written notice, the Board shall convene a hearing to consider such allegations. Such notice shall be given to the known manufacturers of the subject building material and as many other interested parties, industry representatives, and trade groups as can reasonably be identified. Following the hearing, the Board, upon finding that (i) the current technical or administrative Code provisions allow use of or result in defective or deficient building materials, methods, or designs, and (ii) immediate action is necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, may issue amended regulations establishing interim performance standards and Code provisions for the installation, application, and use of such building materials, methods or designs in the Commonwealth. Such amended regulations shall become effective upon their publication in the Virginia Register of Regulations. Any amendments to regulations adopted pursuant to this subsection shall become effective upon their publication in the Virginia Register of Regulations and shall be effective for a period of 24 months or until adopted, modified, or repealed by the Board.

§ 38.2-3323. Group life insurance coverages of spouses, dependent children, and other persons.

A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1 B, may be extended to insure:

1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time student under 25 years of age, or any class of spouses and dependent children, of each insured group member who so elects; and

2. Any other person in whom the insured group member has an insurable interest as defined in §§ 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount of insurance for which the insured group member is eligible.

B. A spouse insured under this section shall have the same conversion right to the insurance on his or her life as the insured group member.

C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured group member if a statement concerning any spouse's, dependent child's, or other person's coverage is included in the certificate.

D. In addition to the coverages afforded by the provisions of this section, any such plan for group life insurance which includes coverage for children shall afford coverage to any child who is both (i) incapable of self-sustaining employment by reason of intellectual ~~disability~~ or physical ~~handicap~~ *disability* and (ii) chiefly dependent upon the employee for support and maintenance. Upon request of the insurer, proof of incapacity and dependency shall be furnished to the insurer by the insured group member within 31 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the specified age. The insurer shall be allowed to charge a premium at the insurer's then customary rate applicable to such group policy for such extended coverage.

E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual life insurance policy without disability or other supplementary benefits, if:

a. An application for the individual policy is made, and the first premium paid to the insurer, within 31 days after such termination; and

b. The individual policy, at the option of such person, is on any one of the forms then customarily

1043 issued by the insurer at the age and for the amount applied for, except that the group policy may
1044 exclude the option to elect term insurance;

1045 c. The individual policy is in an amount not in excess of the amount of life insurance which ceases
1046 because of such termination, less the amount of any life insurance for which such person becomes
1047 eligible under the same or any other group policy within 31 days after such termination, provided that
1048 any amount of insurance which has matured on or before the date of such termination as an endowment
1049 payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall
1050 not, for the purposes of this provision, be included in the amount which is considered to cease because
1051 of such termination; and

1052 d. The premium on the individual policy is at the insurer's then customary rate applicable to the form
1053 and amount of the individual policy, to the class of risk to which such person then belongs, and to the
1054 individual age attained on the effective date of the individual policy.

1055 2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to a
1056 surviving dependent, if any, at the death of the group member, with respect to the coverage under the
1057 group policy which terminates by reason of such death, and (ii) to the dependent of the group member
1058 upon termination of coverage of the dependent, while the group member remains insured under the
1059 group policy, by reason of the dependent ceasing to be a qualified family member under the group
1060 policy.

1061 **§ 38.2-3409. Coverage of dependent children.**

1062 A. Any group or individual accident and sickness insurance policy or subscription contract delivered
1063 or issued for delivery in ~~this~~ the Commonwealth which provides that coverage of a dependent child shall
1064 terminate upon that child's attainment of a specified age, shall also provide in substance that attainment
1065 of the specified age shall not terminate the child's coverage during the continuance of the policy while
1066 the dependent child is and continues to be both: (i) incapable of self-sustaining employment by reason
1067 of intellectual ~~disability~~ or physical ~~handicap, disability~~ and (ii) chiefly dependent upon the policyowner
1068 for support and maintenance.

1069 B. Proof of incapacity and dependency shall be furnished to the insurer by the policyowner within 31
1070 days of the child's attainment of the specified age. Subsequent proof may be required by the insurer but
1071 not more frequently than annually after the two-year period following the child's attainment of the
1072 specified age.

1073 C. The insurer may charge an additional premium for any continuation of coverage beyond the
1074 specified age. The additional premium shall be determined by the insurer on the basis of the class of
1075 risks applicable to the child.

1076 **§ 46.2-100. Definitions.**

1077 As used in this title, unless the context requires a different meaning:

1078 "All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor
1079 and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles
1080 commonly known as "go-carts" that have low centers of gravity and are typically used in racing on
1081 relatively level surfaces, nor does the term include any riding lawn mower.

1082 "Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually
1083 manufactured or designated by the manufacturer as a model manufactured in a calendar year not less
1084 than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

1085 "Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually
1086 manufactured or designated by the manufacturer as a model manufactured in a calendar year not less
1087 than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

1088 "Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not
1089 require the operator to straddle or sit astride and is manufactured to comply with federal safety
1090 requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a
1091 motorcycle.

1092 "Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including
1093 vehicles or combinations that transport motor vehicles on their power unit, designed and used
1094 exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a
1095 backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

1096 "Bicycle" means a device propelled solely by human power, upon which a person may ride either on
1097 or astride a regular seat attached thereto, having two or more wheels in tandem, including children's
1098 bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800
1099 et seq.), a bicycle shall be a vehicle while operated on the highway.

1100 "Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for
1101 the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and
1102 mopeds.

1103 "Business district" means the territory contiguous to a highway where 75 percent or more of the
1104 property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more

along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric power-assisted bicycles shall be classified as follows:

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;

2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and

3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

1166 For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a
1167 vehicle when operated on a highway.

1168 "Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of
1169 which will tend to conceal the identity of a vehicle.

1170 "Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural
1171 implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery
1172 and implements, including self-propelled mowers designed and used for mowing lawns.

1173 "Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use
1174 and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more
1175 wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed.
1176 "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding
1177 lawn mowers.

1178 "Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all
1179 administrative regulations and policies adopted pursuant thereto.

1180 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
1181 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided
1182 for in § 46.2-472.

1183 "Foreign market vehicle" means any motor vehicle originally manufactured outside the United States,
1184 which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and
1185 regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

1186 "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the
1187 Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer
1188 and that has not been registered in the Commonwealth.

1189 "Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their
1190 equipment on a golf course.

1191 "Governing body" means the board of supervisors of a county, council of a city, or council of a
1192 town, as context may require.

1193 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load
1194 thereon.

1195 "Highway" means the entire width between the boundary lines of every way or place open to the use
1196 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,
1197 and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads
1198 or private streets that have been specifically designated "highways" by an ordinance adopted by the
1199 governing body of the county, city, or town in which such private roads or streets are located and (ii)
1200 the entire width between the boundary lines of every way or place used for purposes of vehicular travel
1201 on any property owned, leased, or controlled by the United States government and located in the
1202 Commonwealth.

1203 "Intersection" means (i) the area embraced within the prolongation or connection of the lateral
1204 curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one
1205 another at, or approximately at, right angles, or the area within which vehicles traveling on different
1206 highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways
1207 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting
1208 highway shall be regarded as a separate intersection, in the event such intersecting highway also
1209 includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways
1210 shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of
1211 traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

1212 "Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of
1213 specific lanes of a roadway or to indicate the impending prohibition of such use.

1214 "Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make
1215 arrests for violations of this title or local ordinances authorized by law. For the purposes of access to
1216 law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement
1217 officer" also includes city and county commissioners of the revenue and treasurers, together with their
1218 duly designated deputies and employees, when such officials are actually engaged in the enforcement of
1219 §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

1220 "License plate" means a device containing letters, numerals, or a combination of both, attached to a
1221 motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the
1222 Department.

1223 "Light" means a device for producing illumination or the illumination produced by the device.

1224 "Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a
1225 motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a
1226 golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per
1227 hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal

1228 Regulations, § 571.500.

1229 "Manufactured home" means a structure subject to federal regulation, transportable in one or more
 1230 sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in
 1231 length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis
 1232 and designed to be used as a dwelling with or without a permanent foundation when connected to the
 1233 required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained
 1234 therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that
 1235 is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal
 1236 use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single
 1237 chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American
 1238 National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

1239 "Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by
 1240 or under the direction of the United States Armed Forces for off-road use and subsequently authorized
 1241 for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as
 1242 defined in § 46.2-700, trailers, or semitrailers.

1243 "Moped" means every vehicle that travels on not more than three wheels in contact with the ground
 1244 that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat
 1245 perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic
 1246 centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without
 1247 pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles
 1248 per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or
 1249 scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of
 1250 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while
 1251 operated on a highway.

1252 "Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than
 1253 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat
 1254 perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

1255 "Motor home" means every private motor vehicle with a normal seating capacity of not more than 10
 1256 persons, including the driver, designed primarily for use as living quarters for human beings.

1257 "Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for
 1258 self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained
 1259 primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place,
 1260 office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided,
 1261 for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility
 1262 device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery
 1263 device shall be deemed not to be a motor vehicle.

1264 "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact
 1265 with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does
 1266 not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted
 1267 bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or
 1268 "wheelchair or wheelchair conveyance" as defined in this section.

1269 "Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in
 1270 contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no
 1271 manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric
 1272 motor, (iv) weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a
 1273 paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter"
 1274 includes vehicles with or without handlebars but does not include electric personal assistive mobility
 1275 devices or electric power-assisted bicycles.

1276 "Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any
 1277 foreign corporation that is authorized to do business in the Commonwealth by the State Corporation
 1278 Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of
 1279 corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only
 1280 such principal place of business or branches located within the Commonwealth shall be dealt with as
 1281 residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the
 1282 Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except
 1283 for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as
 1284 defined in this section or (b) a person who is serving a full-time church service or proselyting mission
 1285 of not more than 36 months and who is not gainfully employed, who has actually resided in the
 1286 Commonwealth for a period of six months, whether employed or not, or who has registered a motor
 1287 vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a
 1288 resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's

1289 License Act (§ 46.2-341.1 et seq.).

1290 "Nonresident student" means every nonresident person who is enrolled as a full-time student in an
1291 accredited institution of learning in the Commonwealth and who is not gainfully employed.

1292 "Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual
1293 rider with not more than two wheels in contact with the ground. Except as otherwise provided in this
1294 chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

1295 "Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for
1296 compensation," and "business of transporting persons or property" mean any owner or operator of any
1297 motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or
1298 receives compensation for the service, directly or indirectly; but these terms do not mean a "truck
1299 lessor" as defined in this section and do not include persons or businesses that receive compensation for
1300 delivering a product that they themselves sell or produce, where a separate charge is made for delivery
1301 of the product or the cost of delivery is included in the sale price of the product, but where the person
1302 or business does not derive all or a substantial portion of its income from the transportation of persons
1303 or property except as part of a sales transaction.

1304 "Operator" or "driver" means every person who either (i) drives or is in actual physical control of a
1305 motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a
1306 motor vehicle.

1307 "Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of
1308 an agreement for its conditional sale or lease with the right of purchase on performance of the
1309 conditions stated in the agreement and with an immediate right of possession vested in the conditional
1310 vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or
1311 lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent
1312 paid by the lessee includes charges for services of any nature or when the lease does not provide that
1313 title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner
1314 of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to
1315 vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the
1316 owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of
1317 private carriers.

1318 "Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used
1319 primarily for the transportation of no more than 10 persons, including the driver.

1320 "Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or
1321 other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition
1322 shall also include a card that enables a person to pay for transactions through the use of value stored on
1323 the card itself.

1324 "Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks
1325 and intended primarily for the transport of property on public rights-of-way that does not exceed 500
1326 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring
1327 of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be
1328 considered a motor vehicle or a vehicle.

1329 "Personal delivery device operator" means an entity or its agent that exercises direct physical control
1330 or monitoring over the navigation system and operation of a personal delivery device. For the purposes
1331 of this definition, "agent" means a person not less than 16 years of age charged by an entity with the
1332 responsibility of navigating and operating a personal delivery device. "Personal delivery device operator"
1333 does not include (i) an entity or person who requests the services of a personal delivery device to
1334 transport property or (ii) an entity or person who only arranges for and dispatches the requested services
1335 of a personal delivery device.

1336 "Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and
1337 having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for
1338 personal use, designed to transport property on its own structure independent of any other vehicle, and
1339 having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

1340 "Private road or driveway" means every way in private ownership and used for vehicular travel by
1341 the owner and those having express or implied permission from the owner, but not by other persons.

1342 "Reconstructed vehicle" means every vehicle of a type required to be registered under this title
1343 materially altered from its original construction by the removal, addition, or substitution of new or used
1344 essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle
1345 identification number, line-make, and model year. Except as otherwise provided in this title, this
1346 definition shall not include a "converted electric vehicle" as defined in this section.

1347 "Replica vehicle" means every vehicle of a type required to be registered under this title not fully
1348 constructed by a licensed manufacturer but either constructed or assembled from components. Such
1349 components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The
1350 kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or

a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of ~~the mentally or physically handicapped individuals with mental or physical disabilities~~ to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curblineline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

1412 "Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued
1413 vehicle identification number that is designed or used to carry any person or persons, on any number of
1414 wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric
1415 personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or
1416 scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as
1417 bicycles, roller skates, or skateboards.

1418 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles
1419 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached
1420 thereto.

1421 "Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or
1422 guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel,
1423 pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or
1424 in the case of a private road open to public travel, by authority of the private owner or private official
1425 having jurisdiction.

1426 "Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a
1427 felony nor a misdemeanor.

1428 "Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the
1429 forward movement of a single line of vehicles.

1430 "Trailer" means every vehicle without motive power designed for carrying property or passengers
1431 wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

1432 "Truck" means every motor vehicle designed to transport property on its own structure independent
1433 of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not
1434 include any pickup or panel truck.

1435 "Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer
1436 that is the subject of a bona fide written lease for a term of one year or more to another person,
1437 provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted
1438 common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the
1439 leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the
1440 lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased
1441 motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor;
1442 and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

1443 "Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor,
1444 and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle"
1445 does not include riding lawn mowers.

1446 "Vehicle" means every device in, on or by which any person or property is or may be transported or
1447 drawn on a highway, except personal delivery devices and devices moved by human power or used
1448 exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles,
1449 electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or
1450 scooters, and mopeds shall be vehicles while operated on a highway.

1451 "Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles
1452 or combinations that transport watercraft on their power unit, designed and used exclusively for the
1453 transportation of watercraft.

1454 "Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used
1455 to provide mobility for persons who, by reason of physical disability, are otherwise unable to move
1456 about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and
1457 four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel
1458 chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

1459 **§ 46.2-221. Certain state agencies to report to Department concerning the blind and nearly**
1460 **blind; use of such information by Department; Department to report names of persons refused**
1461 **licenses for defective vision; reports to law-enforcement agencies concerning certain blind or vision**
1462 **impaired individuals who operate motor vehicles.**

1463 Every state agency having knowledge of the blind or ~~visually handicapped~~ *vision impaired*,
1464 maintaining any register of the blind or *vision impaired*, or administering either tax deductions or
1465 exemptions for or aid to the blind or ~~visually handicapped~~ *vision impaired* shall report in January of
1466 each year to the Department the names of all persons so known, registered or benefiting from such
1467 deductions or exemptions, for aid to the blind or ~~visually handicapped~~ *vision impaired*. This information
1468 shall be used by the Department only for the purpose of determining qualifications of these persons for
1469 licensure under Chapter 3 (§ 46.2-300 et seq.). If any such state agency has knowledge that any person
1470 so reported continues to operate a motor vehicle, such agency may provide this information to
1471 appropriate law-enforcement agencies as otherwise permitted by law.

1472 The Department shall report to the Virginia Department for the Blind and Vision Impaired and the
1473 Department for Aging and Rehabilitative Services at least annually the name and address of every

person who has been refused a driver's license solely or partly because of failure to pass the Department's visual examination.

If any employee of the Virginia Department for the Blind and Vision Impaired makes a report to the Department of Motor Vehicles or provides information to an appropriate law-enforcement agency as required or permitted by this section concerning any client of the agency, it shall not be deemed to have been made in violation of the client-agency relationship.

§ 46.2-844. Passing stopped school buses; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, ~~the elderly individuals, or mentally or physically handicapped persons~~ *individuals with mental or physical disabilities*, who, in violation of § 46.2-859, fails to stop and remain stopped until all such ~~persons~~ *individuals* are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.

The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

2. A locality may, by ordinance, authorize the school division of the locality to install and operate a video-monitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division. In any locality that has adopted such an ordinance, a summons for a violation of subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

3. Any private vendor contracting with a school division pursuant to this subsection may impose and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty when such penalty remains due more than 30 days after the date of the mailing of the summons and

1535 notice. The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty
1536 and shall not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid civil penalty
1537 and any administrative fee detailed in a notice or citation issued by the private vendor. If paid no later
1538 than 60 days after the date of the mailing of the summons and notice, the administrative fee shall not
1539 exceed \$25.

1540 4. Any private vendor contracting with a school division pursuant to this subsection may enter into
1541 an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision
1542 B 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that
1543 improperly pass stopped school buses. Information provided to such private vendor shall be protected in
1544 a database with security comparable to that of the Department of Motor Vehicles' system and used only
1545 for enforcement against individuals who violate the provisions of this section. The school division shall
1546 annually certify compliance with this subdivision and make all records pertaining to such system
1547 available for inspection and audit by the Commissioner of Highways or the Commissioner of the
1548 Department of Motor Vehicles or their designee. Any person who discloses personal information in
1549 violation of the provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure.
1550 Any unauthorized use or disclosure of such personal information shall be grounds for termination of the
1551 agreement between the Department of Motor Vehicles and the private vendor.

1552 **§ 46.2-859. Passing a stopped school bus; prima facie evidence.**

1553 A person driving a motor vehicle shall stop such vehicle when approaching, from any direction, any
1554 school bus which is stopped on any highway, private road or school driveway for the purpose of taking
1555 on or discharging children, ~~the elderly individuals, or mentally or physically handicapped persons~~
1556 *individuals with mental or physical disabilities*, and shall remain stopped until all the ~~persons~~ *individuals*
1557 are clear of the highway, private road or school driveway and the bus is put in motion; any ~~person~~
1558 *individual* violating the foregoing is guilty of reckless driving. The driver of a vehicle, however, need
1559 not stop when approaching a school bus if the school bus is stopped on the other roadway of a divided
1560 highway, on an access road, or on a driveway when the other roadway, access road, or driveway is
1561 separated from the roadway on which he is driving by a physical barrier or an unpaved area. The driver
1562 of a vehicle also need not stop when approaching a school bus which is loading or discharging
1563 passengers from or onto property immediately adjacent to a school if the driver is directed by a
1564 law-enforcement officer or other duly authorized uniformed school crossing guard to pass the school
1565 bus. This section shall apply to school buses which are equipped with warning devices prescribed in
1566 § 46.2-1090 and are painted yellow with the words "School Bus" in black letters at least eight inches
1567 high on the front and rear thereof. Only school buses which are painted yellow and equipped with the
1568 required lettering and warning devices shall be identified as school buses.

1569 The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer
1570 that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices
1571 as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

1572 **§ 46.2-917. Operation of yellow motor vehicles of certain seating capacity on state highways**
1573 **prohibited; exceptions; penalty.**

1574 It shall be unlawful for any motor vehicle licensed in Virginia having a seating capacity of more
1575 than 15 persons to be operated on the highways of the Commonwealth if it is yellow, unless it is used
1576 in transporting students who attend public, private, or religious schools or used in transporting ~~the~~
1577 ~~elderly individuals or mentally or physically handicapped persons~~ *individuals with mental or physical*
1578 *disabilities*.

1579 Any violation of this section shall constitute a Class 1 misdemeanor.

1580 **§ 46.2-1090. Warning devices on school buses; other buses; use thereof; penalties.**

1581 Every bus used for the principal purpose of transporting school children shall be equipped with a
1582 warning device of such type as may be prescribed by the State Board of Education after consultation
1583 with the Superintendent of State Police. Such a warning device shall indicate when such bus is either (i)
1584 stopped or about to stop to take on or discharge children, ~~the elderly individuals, or mentally or~~
1585 ~~physically handicapped persons~~ *individuals with mental or physical disabilities* or (ii) stopped or about
1586 to stop for another such bus, when approaching from any direction, that is stopped or about to stop to
1587 take on or discharge any such ~~persons~~ *individual*. Such warning device shall be used and in operation
1588 for at least 100 feet before any proposed stop of such bus if the lawful speed limit is less than
1589 ~~thirty-five~~ 35 miles per hour, and for at least 200 feet before any proposed stop of such bus if the
1590 lawful speed limit is ~~thirty-five~~ 35 miles per hour or more.

1591 For any new bus placed into service on or after July 1, 2007, such warning devices, at a minimum,
1592 shall include a nonsequential system of red traffic warning lights, a warning sign with flashing lights,
1593 and a crossing control arm such that when the bus door is opened, the red warning lights, warning sign
1594 with flashing lights, and crossing control arm are automatically activated.

1595 Failure of a warning device to function on any school bus shall not relieve any person operating a
1596 motor vehicle from his duty to stop as provided in §§ 46.2-844 and 46.2-859.

Any person operating such bus who fails or refuses to equip such vehicle being driven by him with such equipment, or who fails to use such warning devices in the operation of such vehicle ~~shall be~~ is guilty of a Class 3 misdemeanor.

Transit buses used to transport school children in the City of Hampton may be equipped with an advisory sign that extends from the left side of the bus and displays the words: "CAUTION-STUDENTS." Such sign may be equipped with not more than two warning lights of a type approved for use by the Superintendent of State Police.

§ 46.2-1503.2. State Personnel and Public Procurement Acts not applicable.

A. The Executive Director and all staff employed by the Board shall be exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions under this exemption shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ disability, or political affiliation.

B. The Board and the Executive Director shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

§ 51.1-124.27. Employees of the Retirement System.

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ disability, or political affiliation.

§ 51.5-40.1. Definitions.

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

"Hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

"Mental impairment" means (i) a disability attributable to intellectual disability, autism, or any other ~~neurologically handicapping condition~~ neurological disability closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Mobility-impaired person" means any person who has completed training to use a dog for service or support because he is unable to move about without the aid of crutches, a wheelchair, or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise, or perform any related function.

"Otherwise disabled person" means any person who has a physical, sensory, intellectual, developmental, or mental disability or a mental illness.

"Person with a disability" means any person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"Service dog" means a dog trained to do work or perform tasks for the benefit of a mobility-impaired or otherwise disabled person. The work or tasks performed by a service dog shall be directly related to the individual's disability or disorder. Examples of work or tasks include providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting an individual to the presence of allergens, retrieving items, carrying items, providing physical support and assistance with balance and stability, and preventing or interrupting impulsive or destructive behaviors. The provision of emotional support, well-being, comfort, or companionship shall not constitute work or tasks for the purposes of this definition.

"Three-unit service dog team" means a team consisting of a trained service dog, a ~~disabled~~ person with a disability, and a person who is an adult and who has been trained to handle the service dog.

§ 54.1-2968. Information about certain individuals with disabilities.

This chapter shall not be construed to prohibit any duly licensed physician from communicating the identity of any person under age ~~twenty-two~~ 22 who has a physical or mental ~~handicapping condition~~ disability to appropriate agencies of the Commonwealth or any of its political subdivisions and other information regarding such person or condition which may be helpful to the agency in the planning or conduct of services for ~~handicapped persons~~ individuals with disabilities.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax

1658 Commissioner shall establish by regulation a system for use by dealers in classifying individual
1659 purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil.
1660 Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any
1661 portion of such purchase for domestic use may, between the first day of the first month and the fifteenth
1662 day of the fourth month following the year of purchase, apply for a refund of the tax paid on the
1663 domestic use portion.

1664 2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted
1665 an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption
1666 pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food,
1667 prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and
1668 meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

1669 3. Tangible personal property for future use by a person for taxable lease or rental as an established
1670 business or part of an established business, or incidental or germane to such business, including a
1671 simultaneous purchase and taxable leaseback.

1672 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside
1673 of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be
1674 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

1675 5. Tangible personal property purchased with food coupons issued by the United States U.S.
1676 Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special
1677 Supplemental Food Program for Women, Infants, and Children.

1678 6. Tangible personal property purchased for use or consumption in the performance of maintenance
1679 and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the
1680 Commonwealth.

1681 7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised,
1682 edited, reformatted or copied documents, including but not limited to documents stored on or transmitted
1683 by electronic media, to its client or to third parties in the course of the professional's rendition of
1684 services to its clientele.

1685 8. School lunches sold and served to pupils and employees of schools and subsidized by government;
1686 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use
1687 by students attending a college or other institution of learning, when sold (i) by such institution of
1688 learning or (ii) by any other dealer, when such textbooks have been certified by a department or
1689 instructor of such institution of learning as required textbooks for students attending courses at such
1690 institution.

1691 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,
1692 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or
1693 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed
1694 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed
1695 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and
1696 fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by
1697 a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his
1698 professional practice, regardless of whether such practice is organized as a sole proprietorship,
1699 partnership, or professional corporation, or any other type of corporation in which the shareholders and
1700 operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician
1701 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for
1702 use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise
1703 exempt under this section; and samples of prescription drugs and medicines and their packaging
1704 distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and
1705 Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended).

1706 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,
1707 catheters, urinary accessories, other durable medical equipment and devices, and related parts and
1708 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,
1709 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when
1710 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable
1711 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily
1712 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or
1713 injury, and (iv) is appropriate for use in the home.

1714 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

1715 12. Special equipment installed on a motor vehicle when purchased by a ~~handicapped person~~ *an*
1716 *individual with a disability* to enable such ~~person~~ *individual* to operate the motor vehicle.

1717 13. Special typewriters and computers and related parts and supplies specifically designed for those
1718 products used by ~~handicapped persons~~ *individuals with disabilities* to communicate when such equipment
1719 is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2025, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems. However, for manned systems, "aircraft" shall include only aircraft with a maximum takeoff weight of at least 2,400 pounds.

21. A gun safe with a selling price of \$1,500 or less. For purposes of this subdivision, "gun safe" means a safe or vault that is (i) commercially available, (ii) secured with a digital or dial combination locking mechanism or biometric locking mechanism, and (iii) designed for the storage of a firearm or of ammunition for use in a firearm. "Gun safe" does not include a glass-faced cabinet. Any discount, coupon, or other credit offered by the retailer or a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

22. Beginning July 1, 2022, and ending July 1, 2025, prescription medicines and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship as defined in § 54.1-3303.

§ 58.1-2401. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase requires a different meaning:

"Commissioner" shall mean means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Department" shall mean means the Department of Motor Vehicles of the Commonwealth, acting through its duly authorized officers and agents.

"Mobile office" shall mean means an industrialized building unit not subject to the federal regulation,

1781 which may be constructed on a chassis for the purpose of towing to the point of use and designed to be
 1782 used with or without a permanent foundation, for commercial use and not for residential use; or two or
 1783 more such units separately towable, but designed to be joined together at the point of use to form a
 1784 single commercial structure, and which may be designed for removal to, and installation or erection on
 1785 other sites.

1786 "Motor vehicle" ~~shall mean~~ *means* every vehicle, except for mobile office as herein defined, ~~which~~
 1787 ~~that~~ is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be
 1788 drawn by a motor vehicle, including all-terrain vehicles, manufactured homes, mopeds, and off-road
 1789 motorcycles as those terms are defined in § 46.2-100 and every device in, upon and by which any
 1790 person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by
 1791 human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than
 1792 manufactured homes, used in ~~this the~~ Commonwealth but not required to be licensed by the
 1793 Commonwealth.

1794 "Sale" ~~shall mean~~ *means* any transfer of ownership or possession, by exchange or barter, conditional
 1795 or otherwise, in any manner or by any means whatsoever, of a motor vehicle. ~~The term shall~~ "Sale" also
 1796 ~~include~~ *includes* a transaction whereby possession is transferred but title is retained by the seller as
 1797 security. ~~The term shall~~ "Sale" *does* not include a transfer of ownership or possession made to secure
 1798 payment of an obligation, nor ~~shall~~ *does* it include a refund for, or replacement of, a motor vehicle of
 1799 equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act
 1800 (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle
 1801 replaced, only the difference in value shall constitute a sale.

1802 "Sale price" ~~shall mean~~ *means* the total price paid for a motor vehicle and all attachments thereon
 1803 and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers'
 1804 excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However,
 1805 "sale price" ~~shall~~ *does* not include (i) any manufacturer rebate or manufacturer incentive payment
 1806 applied to the transaction by the customer or dealer whether as a reduction in the sales price or as
 1807 payment for the vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power
 1808 brakes or any other equipment installed in or added to a motor vehicle ~~which that~~ is required by law or
 1809 regulation as a condition for operation of a motor vehicle by a ~~handicapped person~~ *an individual with a*
 1810 *disability*.

1811 Article 2.

1812 Exemptions for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

1813 § 58.1-3210. **Exemption or deferral of taxes on property of certain elderly individuals and** 1814 **individuals with disabilities.**

1815 A. The governing body of any ~~county, city or town~~ *locality* may, by ordinance, provide for the
 1816 exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of
 1817 real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such
 1818 conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and
 1819 be occupied as the sole dwelling of anyone at least 65 years of age or if provided in the ordinance,
 1820 anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may
 1821 provide for the exemption from or deferral of that portion of the tax which represents the increase in tax
 1822 liability since the year such taxpayer reached the age of 65 or became disabled, or the year such
 1823 ordinance became effective, whichever is later. A dwelling jointly held by married individuals, with no
 1824 other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and
 1825 the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

1826 B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if
 1827 provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection
 1828 A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i)
 1829 held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint
 1830 lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and
 1831 his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible
 1832 person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or
 1833 enjoys a continuing right of use or support. The term "eligible person" does not include any interest held
 1834 under a leasehold or term of years.

1835 C. For purposes of this article, any reference to:

1836 "Dwelling" ~~shall include~~ *includes* an improvement to real estate exempt pursuant to this article and
 1837 the land upon which such improvement is situated so long as the improvement is used principally for
 1838 other than a business purpose and is used to house or cover any motor vehicle classified pursuant to
 1839 subdivisions A 3 through 10 of § 58.1-3503; household goods classified pursuant to subdivision A 14 of
 1840 § 58.1-3503; or household goods exempted from personal property tax pursuant to § 58.1-3504.

1841 "Real estate" ~~shall include~~ *includes* manufactured homes.

1842 § 58.1-3213.1. **Notice of local real estate tax exemption or deferral program for elderly**

individuals and individuals with disabilities.

The treasurer of any county, city, or town shall enclose written notice, in each real estate tax bill, of the terms and conditions of any local real estate tax exemption or deferral program established in the jurisdiction pursuant to § 58.1-3210. The treasurer shall also employ any other reasonable means necessary to notify residents of the county, city, or town about the terms and conditions of the real estate tax exemption or deferral program for elderly *individuals* and ~~handicapped residents of individuals with disabilities who reside in~~ the county, city, or town.

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.
2. Farm machinery, except as exempted under § 58.1-3505.
3. Automobiles, except those described in subdivisions 7, 8, and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.
4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.
5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.
6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.
7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.
8. Taxicabs.
9. Motor vehicles with specially designed equipment for use by ~~the handicapped individuals with disabilities~~, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.
10. Motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles as defined in § 46.2-100, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.
13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.
14. Household goods and personal effects, except as exempted under § 58.1-3504.
15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.
16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.
17. Computer equipment and peripherals used in a data center, as defined in subdivision A 43 of § 58.1-3506, which shall be valued by means of a percentage or percentages of original cost, or by such other method as may reasonably be expected to determine the actual fair market value.
18. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 17, which shall be valued by means of a percentage or percentages of original

1904 cost.

1905 19. Outdoor advertising signs regulated under Article 1 (§ 33.2-1200 et seq.) of Chapter 12 of Title
1906 33.2.

1907 20. All other tangible personal property.

1908 B. Methods of valuing property may differ among the separate categories, so long as each method
1909 used is uniform within each category, is consistent with requirements of this section and may reasonably
1910 be expected to determine actual fair market value as determined by the commissioner of revenue or
1911 other assessing official; however, assessment ratios shall only be used with the concurrence of the local
1912 governing body. A commissioner of revenue shall upon request take into account the condition of the
1913 property. The term "condition of the property" includes, but is not limited to, technological obsolescence
1914 of property where technological obsolescence is an appropriate factor for valuing such property. The
1915 commissioner of revenue shall make available to taxpayers on request a reasonable description of his
1916 valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a
1917 recognized pricing guide as provided for in this section, may automatically extend the assessment if the
1918 pricing information is stored in a computer. For any locality in which the commissioner of revenue or
1919 other assessing official adjusts the valuation of property described in subdivision A 3 to account for the
1920 amount of mileage on such vehicles, such adjustment shall also be provided to motorcycles described in
1921 subdivision A 10.

1922 **§ 58.1-3506. Other classifications of tangible personal property for taxation.**

1923 A. The items of property set forth below are each declared to be a separate class of property and
1924 shall constitute a classification for local taxation separate from other classifications of tangible personal
1925 property provided in this chapter:

1926 1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

1927 b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

1928 2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and
1929 operated by scheduled air carriers operating under certificates of public convenience and necessity issued
1930 by the State Corporation Commission or the Civil Aeronautics Board;

1931 3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are
1932 not owned or operated by scheduled air carriers recognized under federal law, but not including any
1933 aircraft described in subdivision 4;

1934 4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding
1935 those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and
1936 otherwise used for educational purposes (including such flights as are necessary for testing, maintaining,
1937 or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such
1938 flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a
1939 new class of property. Such class of property shall not include any aircraft used for commercial
1940 purposes, including transportation and other services for a fee;

1941 5. All other aircraft not included in subdivision 2, 3, or 4 and flight simulators;

1942 6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation
1943 purposes as provided in subsection C of § 46.2-730;

1944 7. Tangible personal property used in a research and development business;

1945 8. Heavy construction machinery not used for business purposes, including land movers, bulldozers,
1946 front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural
1947 activity equipment except as exempted under § 58.1-3505, and ditch and other types of diggers;

1948 9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy
1949 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any
1950 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to
1951 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment
1952 shall include, without limitation, such equipment purchased by firms engaged in the business of
1953 generating electricity or steam, or both;

1954 10. Vehicles without motive power, used or designed to be used as manufactured homes as defined
1955 in § 36-85.3;

1956 11. Computer hardware used by businesses primarily engaged in providing data processing services
1957 to other nonrelated or nonaffiliated businesses;

1958 12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes
1959 only;

1960 13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons,
1961 including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

1962 14. Motor vehicles specially equipped to provide transportation for ~~physically handicapped~~
1963 individuals *with physical disabilities*;

1964 15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a
1965 member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel

or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior ~~or handicapped~~ citizens *or individuals with disabilities* in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for

2027 which the classification is sought is the vehicle that is regularly used for that purpose. The certification
2028 shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer;
2029 however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion,
2030 and for good cause shown and without fault on the part of the member, to accept a certification after the
2031 January 31 deadline;

2032 21. Until the first to occur of June 30, 2029, or the date that a special improvements tax is no longer
2033 levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created
2034 pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in
2035 manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District,
2036 provided that such business personal property is put into service within the District on or after July 1,
2037 1999;

2038 22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include
2039 any vehicle described in subdivision 38 or 40;

2040 23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly
2041 licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such
2042 use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the
2043 boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that
2044 are found in the wild, or in a wild state, and are native to a foreign country;

2045 24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and
2046 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is
2047 used by that organization for the purpose of maintaining or using the open or common space within a
2048 residential development;

2049 25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more
2050 used to transport property or passengers for hire by a motor carrier engaged in interstate commerce;

2051 26. All tangible personal property employed in a trade or business other than that described in
2052 subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

2053 27. Programmable computer equipment and peripherals employed in a trade or business;

2054 28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational
2055 purposes only;

2056 29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for
2057 recreational purposes only;

2058 30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes
2059 only;

2060 31. Tangible personal property used in the provision of Internet services. For purposes of this
2061 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables
2062 users to access content, information, electronic mail, and the Internet as part of a package of services
2063 sold to customers;

2064 32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy
2065 sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if
2066 the person is obligated by the terms of the lease to pay tangible personal property tax on the motor
2067 vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve,
2068 volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy
2069 sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In
2070 order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification
2071 shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of
2072 revenue or other assessing officer with a certification from the governing body that has appointed such
2073 auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That
2074 certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor
2075 vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification
2076 is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by
2077 January 31 of each year to the commissioner of revenue or other assessing officer; however, the
2078 commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good
2079 cause shown and without fault on the part of the member, to accept a certification after the January 31
2080 deadline;

2081 33. Forest harvesting and silvicultural activity equipment, except as exempted under § 58.1-3505;

2082 34. Equipment used primarily for research, development, production, or provision of biotechnology
2083 for the purpose of developing or providing products or processes for specific commercial or public
2084 purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural
2085 purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or
2086 for products or purposes related to human embryo stem cells. For purposes of this section,
2087 biotechnology equipment means equipment directly used in activities associated with the science of
2088 living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;
36. Boats or watercraft weighing five tons or more, used for business purposes only;
37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;
38. Low-speed vehicles as defined in § 46.2-100;
39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;
40. Motor vehicles powered solely by electricity;
41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;
42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;
43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;
44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;
45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;
46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than \$500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list;
47. Commercial fishing vessels and property permanently attached to such vessels; and
48. The following classifications of vehicles:
- a. Automobiles as described in subdivision A 3 of § 58.1-3503;
 - b. Trucks of less than two tons as described in subdivision A 4 of § 58.1-3503;
 - c. Trucks and other vehicles as described in subdivision A 5 of § 58.1-3503;
 - d. Motor vehicles with specially designed equipment for use by ~~the handicapped~~ *handicapped individuals with disabilities* as described in subdivision A 9 of § 58.1-3503; and
 - e. Motorcycles, mopeds, all-terrain vehicles, off-road motorcycles, campers, and other recreational

2150 vehicles as described in subdivision A 10 of § 58.1-3503.

2151 B. The governing body of any county, city, or town may levy a tax on the property enumerated in
2152 subsection A at different rates from the tax levied on other tangible personal property. The rates of tax
2153 and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22
2154 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal
2155 property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery
2156 and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of
2157 personal property is included in multiple classifications under subsection A, then the rate of tax shall be
2158 the lowest rate assigned to such classifications.

2159 C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is
2160 defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed
2161 for tangible personal property taxes by a county, city, or town receiving a payment from the
2162 Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax
2163 relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle
2164 at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

2165 Article 1.01.

2166 Alternative Tax Rates for Elderly *Individuals* and ~~Handicapped~~ *Individuals with Disabilities*.

2167 **§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by**
2168 **certain elderly individuals and individuals with disabilities.**

2169 The governing body of any ~~county, city or town~~ *locality* may, by ordinance, levy a tax on one motor
2170 vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be
2171 permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on
2172 other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall
2173 not exceed the tangible personal property tax on the general class of tangible personal property. For
2174 purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any
2175 such motor vehicle owned by married individuals may qualify if either spouse is 65 or over or if either
2176 spouse is permanently and totally disabled. Notwithstanding any other provision of this section or article,
2177 for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in
2178 § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a
2179 payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible
2180 personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of
2181 tax and rates of assessment required under such chapter.

2182 **§ 58.1-3506.6. Notice of local tangible personal property tax relief program for elderly**
2183 **individuals and individuals with disabilities.**

2184 The treasurer of any county, city, or town shall enclose written notice, in each tangible personal
2185 property tax bill, of the terms and conditions of any local tangible personal property tax relief program
2186 established in the jurisdiction pursuant to § 58.1-3506.1. The treasurer shall also employ any other
2187 reasonable means necessary to notify residents of the county, city, or town about the terms and
2188 conditions of the tangible personal property tax relief program for elderly *individuals* and ~~handicapped~~
2189 ~~residents of~~ *individuals with disabilities who reside in* the county, city, or town.

2190 **§ 58.1-3833. County food and beverage tax.**

2191 A. 1. Any county is hereby authorized to levy a tax on food and beverages sold, for human
2192 consumption, by a restaurant, as such term is defined in § 35.1-1, not to exceed six percent of the
2193 amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold
2194 through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias
2195 operated by industrial plants for employees only; (iii) restaurants to their employees as part of their
2196 compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer
2197 emergency medical services agencies; nonprofit churches or other religious bodies; or educational,
2198 charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning
2199 with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and
2200 beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross
2201 proceeds of which are to be used by such church, religious body or organization exclusively for
2202 nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for
2203 their members as a regular part of their religious observances; (vi) public or private elementary or
2204 secondary schools or institutions of higher education to their students or employees; (vii) hospitals,
2205 medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or
2206 residents thereof; (viii) day care centers; (ix) homes for ~~the aged, or infirm~~ *individuals, handicapped*
2207 *individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (x) age-restricted apartment
2208 complexes or residences with restaurants, not open to the public, where meals are served and fees are
2209 charged for such food and beverages and are included in rental fees; or (xi) sellers at local farmers
2210 markets and roadside stands, when such sellers' annual income from such sales does not exceed \$2,500.
2211 For the exemption described in clause (xi), the sellers' annual income shall include income from sales at

all local farmers markets and roadside stands, not just those sales occurring in the locality imposing the tax. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons *individuals or individuals with blindness or other disabilities* in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons *individuals or individuals with blindness or other disabilities* in their homes or at central locations.

2. Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

The term "beverage" as set forth herein ~~shall mean~~ *means* alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body.

B. Nothing herein contained shall affect any authority heretofore granted to any county, city, or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city, or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

C. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 and, to the extent authorized in this chapter, any county may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the ~~United States~~ U.S. Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, or infirm *individuals, handicapped individuals with disabilities*, battered women, narcotic addicts, or alcoholics; (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or (i) sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed \$2,500. For the exemption described in clause (i), the sellers' annual income

2273 shall include income from sales at all local farmers markets and roadside stands, not just those sales
2274 occurring in the locality imposing the tax.

2275 Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the
2276 Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a
2277 public or private nonprofit charitable organization or establishment to elderly, infirm, ~~blind, handicapped,~~
2278 or needy ~~persons~~ *individuals or individuals with blindness or other disabilities* in their homes; or at
2279 central locations; or (3) provided by private establishments that contract with the appropriate agency of
2280 the Commonwealth to offer food, food products, or beverages for immediate consumption at concession
2281 prices to elderly, infirm, ~~blind, handicapped,~~ or needy ~~persons~~ *individuals or individuals with blindness*
2282 *or other disabilities* in their homes or at central locations.

2283 In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business
2284 enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on
2285 property acquired and used by the United States for any military or naval purpose shall be required to
2286 collect and remit meals taxes.

2287 B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this
2288 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises
2289 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
2290 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
2291 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
2292 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

2293 C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions
2294 paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate
2295 levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and
2296 amphitheaters.

2297 D. [Expired.]

2298 **§ 58.1-4024. Employees of the Department.**

2299 Employees of the Department shall be exempt from the provisions of the Virginia Personnel Act,
2300 Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Personnel actions shall be taken without regard to race, sex,
2301 sexual orientation, gender identity, color, national origin, religion, age, ~~handicap~~ *disability*, or political
2302 affiliation.

2303 **§ 63.2-100. Definitions.**

2304 As used in this title, unless the context requires a different meaning:

2305 "Abused or neglected child" means any child less than 18 years of age:

2306 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
2307 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
2308 accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental
2309 functions, including, but not limited to, a child who is with his parent or other person responsible for his
2310 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled
2311 substance, or (ii) during the unlawful sale of such substance by that child's parents or other person
2312 responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would
2313 constitute a felony violation of § 18.2-248;

2314 2. Whose parents or other person responsible for his care neglects or refuses to provide care
2315 necessary for his health. However, no child who in good faith is under treatment solely by spiritual
2316 means through prayer in accordance with the tenets and practices of a recognized church or religious
2317 denomination shall for that reason alone be considered to be an abused or neglected child. Further, a
2318 decision by parents who have legal authority for the child or, in the absence of parents with legal
2319 authority for the child, any person with legal authority for the child, who refuses a particular medical
2320 treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary
2321 care if (i) such decision is made jointly by the parents or other person with legal authority and the child;
2322 (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the
2323 subject of his medical treatment; (iii) the parents or other person with legal authority and the child have
2324 considered alternative treatment options; and (iv) the parents or other person with legal authority and the
2325 child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision
2326 shall be construed to limit the provisions of § 16.1-278.4;

2327 3. Whose parents or other person responsible for his care abandons such child;

2328 4. Whose parents or other person responsible for his care, or an intimate partner of such parent or
2329 person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child
2330 in violation of the law;

2331 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or
2332 physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco
2333 parentis;

2334 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 § 55.1-2000, 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 Tier III offender pursuant to § 9.1-902; or

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

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

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

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

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

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

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

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

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

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

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

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, *or infirm or disabled who have disabilities* and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility

2396 licensed by the State Board of Health or the Department of Behavioral Health and Developmental
2397 Services, but including any portion of such facility not so licensed; (ii) the home or residence of an
2398 individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or
2399 portion of a facility serving *individuals who are* infirm or ~~disabled~~ *persons who have disabilities*
2400 between the ages of 18 and 21, or 22 if enrolled in an educational program for ~~the handicapped~~
2401 *individuals with disabilities* pursuant to § 22.1-214, when such facility is licensed by the Department as
2402 a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the
2403 facility not so licensed; and (iv) any housing project for ~~persons~~ *individuals who are* 62 years of age or
2404 older or ~~the disabled~~ *individuals with disabilities* that provides no more than basic coordination of care
2405 services and is funded by the U.S. Department of Housing and Urban Development, by the U.S.
2406 Department of Agriculture, or by the Virginia Housing Development Authority. Included in this
2407 definition are any two or more places, establishments or institutions owned or operated by a single
2408 entity and providing maintenance or care to a combined total of four or more *adults who are aged, or*
2409 *infirm or disabled adults or who have disabilities*. Maintenance or care means the protection, general
2410 supervision and oversight of the physical and mental well-being of an *individual who is aged, or infirm*
2411 *or disabled individual who has a disability*.

2412 "Auxiliary grants" means cash payments made to certain aged [, ~~or~~] blind [*individuals* ,] or [*disabled*]
2413 individuals [~~with other disabilities~~] who receive benefits under Title XVI of the Social
2414 Security Act, as amended, or would be eligible to receive these benefits except for excess income.

2415 "Birth family" or "birth sibling" means the child's biological family or biological sibling.

2416 "Birth parent" means the child's biological parent and, for purposes of adoptive placement, means
2417 parent(s) by previous adoption.

2418 "Board" means the State Board of Social Services.

2419 "Child" means any natural person who is (i) under 18 years of age or (ii) for purposes of the
2420 Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9, under 21 years of age
2421 and meets the eligibility criteria set forth in § 63.2-919.

2422 "Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or
2423 independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster
2424 homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists
2425 parents with the process of delegating parental and legal custodial powers of their children pursuant to
2426 Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom
2427 such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title
2428 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their
2429 authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

2430 "Child-protective services" means the identification, receipt and immediate response to complaints
2431 and reports of alleged child abuse or neglect for children under 18 years of age. It also includes
2432 assessment, and arranging for and providing necessary protective and rehabilitative services for a child
2433 and his family when the child has been found to have been abused or neglected or is at risk of being
2434 abused or neglected.

2435 "Child support services" means any civil, criminal or administrative action taken by the Division of
2436 Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or
2437 collect child support, or child and spousal support.

2438 "Child-welfare agency" means a child-placing agency, children's residential facility, or independent
2439 foster home.

2440 "Children's residential facility" means any facility, child-caring institution, or group home that is
2441 maintained for the purpose of receiving children separated from their parents or guardians for full-time
2442 care, maintenance, protection and guidance, or for the purpose of providing independent living services
2443 to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.
2444 Children's residential facility shall not include:

2445 1. A licensed or accredited educational institution whose pupils, in the ordinary course of events,
2446 return annually to the homes of their parents or guardians for not less than two months of summer
2447 vacation;

2448 2. An establishment required to be licensed as a summer camp by § 35.1-18; and

2449 3. A licensed or accredited hospital legally maintained as such.

2450 "Commissioner" means the Commissioner of the Department, his designee or authorized
2451 representative.

2452 "Department" means the State Department of Social Services.

2453 "Department of Health and Human Services" means the Department of Health and Human Services
2454 of the United States government or any department or agency thereof that may hereafter be designated
2455 as the agency to administer the Social Security Act, as amended.

2456 "Disposable income" means that part of the income due and payable of any individual remaining
2457 after the deduction of any amount required by law to be withheld.

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

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

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

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

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

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

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

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

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

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

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

2519 "Independent physician" means a physician who is chosen by the resident of the assisted living
2520 facility and who has no financial interest in the assisted living facility, directly or indirectly, as an
2521 owner, officer, or employee or as an independent contractor with the residence.

2522 "Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster
2523 care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other
2524 entity authorized to make such placements in accordance with the laws of the foreign country under
2525 which it operates.

2526 "Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care
2527 placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of
2528 the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or
2529 nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the
2530 action of any court.

2531 "Kinship care" means the full-time care, nurturing, and protection of children by relatives.

2532 "Kinship guardian" means the adult relative of a child in a kinship guardianship established in
2533 accordance with § 63.2-1305 or 63.2-1306 who has been awarded custody of the child by the court after
2534 acting as the child's foster parent.

2535 "Kinship guardianship" means a relationship established in accordance with § 63.2-1305 or 63.2-1306
2536 between a child and an adult relative of the child who has formerly acted as the child's foster parent that
2537 is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult
2538 relative of the child of the authority necessary to ensure the protection, education, care and control, and
2539 custody of the child and the authority for decision making for the child.

2540 "Local board" means the local board of social services representing one or more counties or cities.

2541 "Local department" means the local department of social services of any county or city in ~~this~~ *the*
2542 Commonwealth.

2543 "Local director" means the director or his designated representative of the local department of the
2544 city or county.

2545 "Merit system plan" means those regulations adopted by the Board in the development and operation
2546 of a system of personnel administration meeting requirements of the federal Office of Personnel
2547 Management.

2548 "Parental placement" means locating or effecting the placement of a child or the placing of a child in
2549 a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

2550 "Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to [
2551 the] [~~individuals who are~~] aged [, ~~or~~] blind [,] and [disabled ~~individuals with other disabilities~~] ;
2552 medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

2553 "Qualified assessor" means an entity contracting with the Department of Medical Assistance Services
2554 to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for
2555 a home and community-based waiver program, including an independent physician contracting with the
2556 Department of Medical Assistance Services to complete the uniform assessment instrument for residents
2557 of assisted living facilities, or any hospital that has contracted with the Department of Medical
2558 Assistance Services to perform nursing facility pre-admission screenings.

2559 "Qualified individual" means a trained professional or licensed clinician who is not an employee of
2560 the local board of social services or licensed child-placing agency that placed the child in a qualified
2561 residential treatment program and is not affiliated with any placement setting in which children are
2562 placed by such local board of social services or licensed child-placing agency.

2563 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
2564 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
2565 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
2566 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
2567 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
2568 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
2569 outreach with the child's family members, including efforts to maintain connections between the child
2570 and his siblings and other family; documents and maintains records of such outreach efforts; and
2571 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
2572 appropriate and in the best interest of the child, facilitates participation by family members in the child's
2573 treatment program before and after discharge and documents the manner in which such participation is
2574 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
2575 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
2576 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
2577 any child placed in the program receive an assessment within 30 days of such placement by a qualified
2578 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
2579 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
2580 identifies whether the needs of the child can be met through placement with a family member or in a

foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

"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.

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

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

"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 Virginia Initiative for Education and Work (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.

§ 63.2-319. Child welfare and other services.

Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. For purposes of this section, the term "child welfare services" means public social services that are directed toward:

1. Protecting the welfare of all children including ~~handicapped~~, homeless, dependent, or neglected children *or children with disabilities*;

2. Preventing or remedying, or assisting in the solution of problems that may result in the neglect, abuse, exploitation or delinquency of children;

3. Preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving these problems and preventing the break up of the family where preventing the removal of a child is desirable and possible;

4. Restoring to their families children who have been removed by providing services to the families and children;

5. Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate; and

6. Assuring adequate care of children away from their homes in cases where they cannot be returned home or placed for adoption.

Each local board is also authorized and, as may be provided by regulations of the Board, shall provide rehabilitation and other services to help individuals attain or retain self-care or self-support and such services as are likely to prevent or reduce dependency and, in the case of dependent children, to

2642 maintain and strengthen family life.

2643 **§ 63.2-1301. Types of adoption assistance payments.**

2644 A. Title IV-E maintenance payments shall be made to the adoptive parents on behalf of an adopted
2645 child placed if it is determined that the child is a child with special needs as set forth in § 63.2-1300
2646 and the child meets the requirements set forth in § 473 of Title IV-E of the Social Security Act (42
2647 U.S.C. § 673).

2648 B. State-funded maintenance payments may be made to the adoptive parents on behalf of an adopted
2649 child if it is determined that the child does not meet the requirements set forth in § 473 of Title IV-E of
2650 the Social Security Act (42 U.S.C. § 673) but the child is a child with special needs as set forth in
2651 § 63.2-1300. A child with special needs shall receive state-funded maintenance payments if he:

2652 1. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive
2653 placement;

2654 2. Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive
2655 placement and met the factors set forth in subdivision B 1 or 2 of § 63.2-1300 at the time of adoption
2656 but such factors were not diagnosed until after the final order of adoption and no more than one year
2657 has elapsed from the date of diagnosis; or

2658 3. Lived with his foster parents for at least 12 months and has developed significant emotional ties
2659 with his foster parents while in their care and the foster parents wish to adopt the child and state-funded
2660 maintenance payments are necessary to enable the adoption.

2661 C. Special services payments may be made for the provision of services to the child that are not
2662 covered by insurance, Medicaid, or otherwise. Special services include (i) medical, surgical, and dental
2663 care; (ii) hospitalization; (iii) individual remedial education services; (iv) psychological and psychiatric
2664 treatment; (v) speech and physical therapy; and (vi) special equipment, treatment, and training for
2665 physical and mental ~~handicaps~~ disabilities. A child is eligible for special services payments if:

2666 1. The child is a child with special needs as set forth in § 63.2-1300;

2667 2. The child is receiving adoption assistance payments pursuant to subsection A or B; and

2668 3. The adoptive parents are capable of providing the permanent family relationships needed by the
2669 child in all respects except financial.

2670 D. Nonrecurring expense payments shall be made to the adoptive parents for expenses related to the
2671 adoption, including reasonable and necessary adoption fees, court costs, attorney fees and other legal
2672 service fees, as well as any other expenses that are directly related to the legal adoption of a child with
2673 special needs, including costs related to the adoption study, any health and psychological examinations,
2674 supervision of the placement prior to adoption and any transportation costs and reasonable costs of
2675 lodging and food for the child and the adoptive parents when necessary to complete the placement or
2676 adoption process for which the adoptive parents carry ultimate liability for payment and that have not
2677 been reimbursed from any other source, as set forth in 45 C.F.R. § 1356.41. However, the total amount
2678 of nonrecurring expense payments made to adoptive parents for the adoption of a child shall not exceed
2679 \$2,000 or an amount established by federal law.

2680 **§ 63.2-1302. Adoption assistance payments; maintenance; special needs; payment agreements;**
2681 **continuation of payments when adoptive parents move to another jurisdiction; procedural**
2682 **requirements.**

2683 A. Adoption assistance payments may include Title IV-E or state-funded maintenance payments;
2684 however, such payments shall not exceed the foster care payment that would otherwise be made for the
2685 child at the time the adoption assistance agreement is signed.

2686 B. Adoption assistance payments shall cease when the child with special needs reaches 18 years of
2687 age. However, assistance payments may continue until the child reaches 21 years of age under the
2688 following circumstances:

2689 1. The local department determines on or within six months prior to the child's eighteenth birthday
2690 that the child has a mental or physical ~~handicap~~ disability, or an educational delay resulting from such
2691 ~~handicap~~ disability, warranting the continuation of assistance; or

2692 2. The initial adoption assistance agreement became effective on or after the child's sixteenth birthday
2693 and the child is (i) completing secondary education or an equivalent thereof; (ii) enrolled in an
2694 institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per
2695 month; (iv) participating in a program or activity designed to promote employment or remove barriers to
2696 employment; or (v) incapable of doing any of the activities set forth in clauses (i) through (iv) due to a
2697 medical condition.

2698 C. Adoption assistance payments shall be made on the basis of an adoption assistance agreement
2699 entered into by the local board and the adoptive parents or, in cases in which the child is in the custody
2700 of a licensed child-placing agency, an agreement between the local board, the licensed child-placing
2701 agency and the adoptive parents. A representative of the Department shall negotiate all adoption
2702 assistance agreements with both existing and prospective adoptive parents on behalf of local
2703 departments.

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing agency shall ensure that adoptive parents have received information about their child's eligibility for adoption assistance; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for renegotiating the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within 30 days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving adoption assistance payments remains in their care, (ii) the child's condition requiring adoption assistance continues to exist, and (iii) whether or not changes to the adoption assistance agreement are requested.

Title IV-E maintenance payments made pursuant to this section shall be changed only in accordance with the provisions of § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

D. Responsibility for adoption assistance payments for a child placed for adoption shall be continued by the local board that initiated the agreement in the event that the adoptive parents live in or move to another jurisdiction.

E. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.2-1301. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter. Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.

§ 64.2-745. Certain claims for reimbursement for public assistance.

A. Notwithstanding any contrary provision in the trust instrument, if a statute or regulation of the United States or Commonwealth requires a beneficiary to reimburse the Commonwealth or any agency or instrumentality thereof, for public assistance, including medical assistance, furnished or to be furnished to the beneficiary, the Attorney General or an attorney acting on behalf of the state agency responsible for the program may file a petition in the circuit court having jurisdiction over the trustee requesting reimbursement. The petition may be filed prior to obtaining a judgment. The beneficiary, the guardian of his estate, his conservator, or his committee shall be made a party.

B. Following its review of the circumstances of the case, the court may:

1. Order the trustee to satisfy all or part of the liability out of all or part of the amounts to which the beneficiary is entitled, whether presently or in the future, to the extent the beneficiary has the right under the trust to compel the trustee to pay income or principal to or for the benefit of the beneficiary; or

2. Regardless of whether the beneficiary has the right to compel the trustee to pay income or principal to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of any future payments that the trustee chooses to make to or for the benefit of the beneficiary in the exercise of discretion under the trust.

C. A duty in the trustee under the instrument to make disbursements in a manner designed to avoid rendering the beneficiary ineligible for public assistance to which he might otherwise be entitled, however, shall not be construed as a right possessed by the beneficiary to compel such payments.

D. The court shall not issue an order pursuant to this section if the beneficiary is a person who has a medically determined physical or mental disability that substantially impairs his ability to provide for his care or custody, and constitutes a substantial ~~handicap~~ disability.