# Code Sections with Gender-Specific Terms

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§ 1-303. Cession of territory northwest of Ohio River.

A. The territory northwest of the Ohio River ceded by the Commonwealth shall be and remain the same as provided by:

1. An act of the General Assembly passed on January 2, 1781, that resolved that this Commonwealth would on certain conditions yield for the benefit of the United States all its right to the territory northwest of the Ohio River.

2. An act of the General Assembly passed on December 20, 1783, that authorized the transfer to the United States, subject to the terms and conditions contained in the act of the United States Congress passed on September 13, 1783 and the deed of cession that was made accordingly.

3. An act of the General Assembly passed on December 30, 1788, whereby, after referring to an ordinance for the government of the territory, passed by the United States Congress on July 13, 1787, and reciting a particular article declared in the ordinance to be part of the compact between the original states and the people and states in the territory, the article of compact was ratified and confirmed.

B. Such cession shall be deemed and taken according to the true intent and meaning of the acts and deed, and subject to all the terms and conditions therein expressed.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 1-401. Ceding additional jurisdiction to United States.

A. Whenever the head or other authorized officer of any department or independent establishment or agency of the United States shall deem it desirable that additional jurisdiction or powers be ceded over any lands in the Commonwealth acquired or proposed to be acquired by the United States under his immediate jurisdiction, custody or control, and whenever the Governor and Attorney General of the Commonwealth shall agree to the same, the Governor and Attorney General shall execute and acknowledge a deed in the name of and under the lesser seal of the Commonwealth ceding such additional jurisdiction. The deed shall accurately and specifically describe the area and location of the land over which the additional jurisdiction and powers are ceded and shall set out specifically what additional jurisdiction and powers are ceded, and may set out any reservations in the Commonwealth of jurisdiction which may be deemed proper in addition to those referred to in subsection D.
B. No such deed shall become effective or operative until the jurisdiction therein provided for is accepted on behalf of the United States as required by 40 U.S.C. § 255. The head or other authorized officer of a department or independent establishment or agency of the United States shall indicate such acceptance by executing and acknowledging such deed and admitting it to record in the office of the clerk of the court in which deeds conveying the lands affected would properly be recorded.

C. When such deed has been executed and acknowledged on behalf of the Commonwealth and the United States, and admitted to record as provided in subsection B, it shall have the effect of ceding to and vesting in the United States the jurisdiction and powers therein provided for and none other.

D. Every such deed as is provided for in this section shall reserve in the Commonwealth over all lands therein referred to the jurisdiction and power to serve civil and criminal process on such lands and in the event that the lands or any part thereof shall be sold or leased to any person, under the terms of which sale or lease the vendee or lessee shall have the right to conduct thereon any private industry or business, then the jurisdiction ceded to the United States over any such lands so sold or leased shall cease and determine, and thereafter the Commonwealth shall have all jurisdiction and power she it would have had if no jurisdiction or power had been ceded to the United States. This provision, however, shall not apply to post exchanges, officers' clubs and similar activities on lands acquired by the United States for purposes of national defense. It is further provided that the reservations provided for in this subsection shall remain effective even though they should be omitted from any deed executed pursuant to this section.

E. Nothing contained in this section shall be construed as repealing any special acts ceding jurisdiction to the United States to acquire any specific tract of land.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;

4. A stock, bond, note, or other investment interest in an entity;

5. A receipt given for the payment of money or other property;

6. A right in action;

7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;

8. A loan or forgiveness of indebtedness;

9. A work of art, antique, or collectible;

10. An automobile or other means of personal transportation;

11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;

12. An honorarium or compensation for services;

13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;

14. A promise or offer of employment; or

15. Any other thing of value that is pecuniary or compensatory in value to a person.

"Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or

2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.
"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor. "Executive action" includes procurement transactions.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the Virginia Lottery.

"Executive official" means:

1. The Governor;
2. The Lieutenant Governor;
3. The Attorney General;
4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General other than a clerical or secretarial employee;
5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each executive agency; or
6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100, however selected.

"Expenditure" means:

1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;
2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;

3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

4. A payment that directly benefits an executive or legislative official or a member of the official's immediate family;

5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with an executive or legislative official;

6. A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive or legislative official; or

7. A payment or reimbursement for categories of expenditures required to be reported pursuant to this chapter.

"Expenditure" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Fair market value" means the price that a good or service would bring between a willing seller and a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the actual price paid for the good or service shall be given consideration.

"Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, and includes services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"Gift" does not mean:

1. Printed informational or promotional material;

2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
3. A devise or inheritance;

4. A gift of a value of less than $20;

5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used;

6. Any food or beverages provided to an individual at an event at which the individual is performing official duties related to his public service;

7. Any food and beverages received at or registration or attendance fees waived for any event at which the individual is a featured speaker, presenter, or lecturer;

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, parent's sibling, parent's sibling's spouse, sibling's child, sibling's spouse's child, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister sibling, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister step-sibling; or the donee's brother's or sister's sibling's spouse or the donee's son-in-law or daughter-in-law child-in-law;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;

11. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.
"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or
4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:
1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;
2. An individual who represents an organization, association, or other group for the purpose of lobbying; or
3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:
1. Any county, city, town, or other local or regional political subdivision;
2. Any school division;
3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or
4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Procurement transaction" means all functions that pertain to obtaining all goods, services, or construction on behalf of an executive agency, including description of requirements, selection and
solicitation of sources, preparation and award of contract, and all phases of contract administration where
the stated or expected value of the contract is $5 million or more.

"Secretary" means the Secretary of the Commonwealth.

"Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
fair market value cannot be determined, the actual amount paid for the item or items shall be given
consideration.

"Widely attended event" means an event at which at least 25 persons have been invited to attend
or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 2.2-3101. Definitions.

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

"Advisory agency" means any board, commission, committee or post which does not exercise any
sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the
purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidiary
relationship, that exists when (i) one business entity has a controlling ownership interest in the other
business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii)
there is shared management or control between the business entities. Factors that may be considered in
determining the existence of an affiliated business entity relationship include that the same person or
substantially the same person owns or manages the two entities, there are common or commingled funds
or assets, the business entities share the use of the same offices or employees, or otherwise share activities,
resources or personnel on a regular basis, or there is otherwise a close working relationship between the
entities.
"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit,
or need-based scholarship or any other financial aid awarded by a public or private school, institution of
higher education, or other educational program pursuant to such school, institution, or program's financial
aid standards and procedures applicable to the general public; (iv) a campaign contribution properly
received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the
private profession or occupation or volunteer service of an officer or employee or of a member of his
immediate family; (vi) food or beverages consumed while attending an event at which the filer is
performing official duties related to his public service; (vii) food and beverages received at or registration
or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii)
unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar
item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or
inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.);
(xi) travel paid for or provided by the government of the United States, any of its territories, or any state
or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a
regular or special session of the General Assembly, a meeting of a legislative committee or commission,
or a national conference where attendance is approved by the House Committee on Rules or its Chairman
or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any
meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any
board, commission, authority, or other entity, or any charitable organization established pursuant to §
501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been
appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less
than $20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and
beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi)
gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's
spouse, child, uncle, aunt, niece, nephew, parent's sibling, parent's sibling's spouse, sibling's child, sibling's
spouse's child, or first cousin; a person to whom the donee is engaged to be married; the donee's or his
spouse's parent, grandparent, grandchild, brother, sister sibling, step-parent, step-grandparent, step-
grandchild, step brother, or step sister step-sibling; or the donee's brother's or sister's sibling's spouse or

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the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, $5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any
combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, $5,000 annually; (iv) ownership of real or personal property if the interest exceeds $5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.
"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § 2.2-3114.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, parent, sibling, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, child, child-in-law, or brother-in-law sibling in law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or
3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by a school district located in Planning Districts 3, 4, 11, 12, 13, and 17 of the father, mother, brother, sister, parent, sibling, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, child, child-in-law, or brother-in-law sibling-in-law of any member of the school board provided (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 2.2-4368. Definitions.

As used in this article:

"Immediate family" means a spouse, children, parents, brothers and sisters, siblings, and any other person living in the same household as the employee.
"Official responsibility" means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

"Pecuniary interest arising from the procurement" means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

"Procurement transaction" means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

"Public employee" means any person employed by a public body, including elected officials or appointed members of governing bodies.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 8.01-50. Action for death by wrongful act; how and when to be brought.

A. Whenever the death of a person shall be caused by the wrongful act, neglect, or default of any person or corporation, or of any ship or vessel, and the act, neglect, or default is such as would, if death had not ensued, have entitled the party injured to maintain an action, or to proceed in rem against such ship or vessel or in personam against the owners thereof or those having control of her such ship or vessel, and to recover damages in respect thereof, then, and in every such case, the person who, or corporation or ship or vessel which, would have been liable, if death had not ensued, shall be liable to an action for damages, or, if a ship or vessel, to a libel in rem, and her such ship's or vessel's owners or those responsible for her its acts or defaults or negligence to a libel in personam, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances, as amount in law to a felony.

B. Whenever a fetal death, as defined in § 32.1-249, is caused by the wrongful act, neglect, or default of any person, ship, vessel, or corporation, the natural mother of the fetus may bring an action pursuant to this section against such tortfeasor. Nothing in this section shall be construed to create a cause of action for a fetal death against the natural mother of the fetus.
C. Every such action under subsection A shall be brought by and in the name of the personal representative of such deceased person. Actions for fetal death under subsection B shall be brought by and in the name of the natural mother; provided, however, if the natural mother dies, or is or becomes a person under a disability as defined in § 8.01-2, such action may be initiated or maintained by the administrator of the natural mother's estate, her guardian, or her personal representative qualified to bring such action.

In an action for fetal death under subsection B brought under Chapter 21.1 (§ 8.01-581.1 et seq.) where the wrongful act that resulted in a fetal death also resulted in the death of another fetus of the natural mother or in the death or injury of the natural mother, recovery for all damages sustained as a result of such wrongful act shall not exceed the limitations on the total amount recoverable for a single patient for any injury under § 8.01-581.15. The person bringing an action under subsection B shall have the power to compromise a claim pursuant to § 8.01-55 and any damages recovered shall be distributed pursuant to this article. Every such action under this section shall be brought within the time limits specified in § 8.01-244.

D. If the deceased person was an infant who was in the custody of a parent pursuant to an order of court or written agreement with the other parent, administration shall be granted first to the parent having custody; however, that parent may waive his right to qualify in favor of any other person designated by him. If no such parent or his designee applies for administration within 30 days from the death of the infant, administration shall be granted as in other cases.

E. For purposes of this section, "natural mother" means the woman carrying the child.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 8.01-52.1. Admissibility of expressions of sympathy.

In any wrongful death action brought pursuant to § 8.01-50 against a health care provider, or in any arbitration or medical malpractice review panel proceeding related to such wrongful death action, the portion of statements, writings, affirmations, benevolent conduct, or benevolent gestures expressing sympathy, commiseration, condolence, compassion, or a general sense of benevolence, together with apologies that are made by a health care provider or an agent of a health care provider to a relative of the patient, or a representative of the patient about the death of the patient as a result of the unanticipated
outcome of health care, shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest. A statement of fault that is part of or in addition to any of the above shall not be made inadmissible by this section.

For purposes of this section, unless the context otherwise requires:

"Health care" has the same definition as provided in § 8.01-581.1.

"Health care provider" has the same definition as provided in § 8.01-581.1.

"Relative" means a decedent's spouse, parent, grandparent, stepfather, stepmother, step-parent, child, grandchild, brother, sister, half-brother, half-sister, sibling, half-sibling, or spouse's parents. In addition, "relative" includes any person who had a family-type relationship with the decedent.

"Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

"Unanticipated outcome" means the outcome of the delivery of health care that differs from an expected result.

**Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

§ 8.01-53. Class and beneficiaries; when determined.

A. The damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased or (ii) if there be none such, then to the parents, brothers and sisters, of the deceased, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents or (iv) if there are survivors under clause (i) or clause (iii), the award shall be distributed to those beneficiaries and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i), (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.2-200.

Provided, however, no parent whose parental rights and responsibilities have been terminated by a court
of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

B. The class and beneficiaries thereof eligible to receive such distribution shall be fixed (i) at the time the verdict is entered if the jury makes the specification, or (ii) at the time the judgment is rendered if the court specifies the distribution.

C. A beneficiary may renounce his interest in any claim brought pursuant to § 8.01-50 and, in such event, the damages shall be distributed to the beneficiaries in the same class as the renouncing beneficiary or, if there are none, to the beneficiaries in any subsequent class in the order of priority set forth in subsection A.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 8.01-581.20:1. Admissibility of expressions of sympathy.

In any civil action brought by an alleged victim of an unanticipated outcome of health care, or in any arbitration or medical malpractice review panel proceeding related to such civil action, the portion of statements, writings, affirmations, benevolent conduct, or benevolent gestures expressing sympathy, commiseration, condolence, compassion, or a general sense of benevolence, together with apologies that are made by a health care provider or an agent of a health care provider to the patient, a relative of the patient, or a representative of the patient, shall be inadmissible as evidence of an admission of liability or as evidence of an admission against interest. A statement of fault that is part of or in addition to any of the above shall not be made inadmissible by this section.

For purposes of this section, unless the context otherwise requires:

"Health care" has the same definition as provided in § 8.01-581.1.

"Health care provider" has the same definition as provided in § 8.01-581.1.

"Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, step-parent, child, grandchild, brother, sister, half-brother, half-sister, sibling, half-sibling, or spouse's parents. In addition, "relative" includes any person who has a family-type relationship with the patient.
"Representative" means a legal guardian, attorney, person designated to make decisions on behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a patient's agent.

"Unanticipated outcome" means the outcome of the delivery of health care that differs from an expected result.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 8.9A-102. Definitions and index of definitions.

(a) Title 8.9A definitions. In this title:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;
(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security
interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes
another record maintained as an alternative to a certificate of title by the governmental unit that issues
certificates of title if a statute permits the security interest in question to be indicated on the record as a
condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect
to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a
security interest in specific goods, a security interest in specific goods and software used in the goods, a
security interest in specific goods and license of software used in the goods, a lease of specific goods, or
a lease of specific goods and license of software used in the goods. In this paragraph, "monetary
obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and
includes a monetary obligation with respect to software used in the goods. The term does not include (i)
charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to
payment arising out of the use of a credit or charge card or information contained on or for use with the
card. If a transaction is evidenced by records that include an instrument or series of instruments, the group
of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term
includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which
a commodity contract is carried for a commodity customer.
(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
(B) with respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.
(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in subdivision (2) of § 8.7-201.

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to subsection (a) of § 8.9A-519.

(37) "Filing office" means an office designated in § 8.9A-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to § 8.9A-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.
"Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections (a) and (b) of § 8.9A-502. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

"Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

"General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

"Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

"Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

"Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.
(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance
which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the
payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in
ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The
term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to
payment arising out of the use of a credit or charge card or information contained on or for use with the
card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security
entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction
under whose law the organization is formed or organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit,
whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance.
The term does not include the right of a beneficiary to demand payment or performance under a letter of
credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.
(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under subsection (d) of § 8.9A-203 by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.
(60) "Original debtor," except as used in subsection (c) of § 8.9A-310, means a person that, as
debtor, entered into a security agreement to which a new debtor has become bound under subsection (d)
of § 8.9A-203.

(61) "Payment intangible" means a general intangible under which the account debtor's principal
obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, sibling or sister-in-law sibling-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares
the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the
organization;

(B) an officer or director of, or a person performing similar functions with respect to, the
organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person
described in subparagraph (A);

(D) the spouse of an individual described in subparagraph (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in subparagraph
(A), (B), (C), or (D) and shares the same home with the individual.

(64) "Proceeds," except as used in subsection (b) of § 8.9A-609, means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or
interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured
party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in,
or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary
obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the
bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which
the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures
pursuant to §§ 8.9A-620, 8.9A-621, and 8.9A-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral,
assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a
governmental unit of a state.

(68) "Public organic record" means a record that is available to the public for inspection and that
is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to
form or organize an organization and any record filed with or issued by the state or the United States
which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any
record filed with the state which amends or restates the initial record, if a statute of the state governing
business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the Congress of the
United States which forms or organizes an organization, any record amending the legislation, and any
record filed with or issued by the state or the United States which amends or restates the name of the
organization.
"Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

"Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

"Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

"Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

"Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under § 8.2-401, 8.2-505, 8.2-711 (3), 8.2A-508 (5), 8.4-210, or 8.5A-118.
(74) "Security agreement" means an agreement that creates or provides for a security interest.

(75) "Send," in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

(76) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(77) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(78) "Supporting obligation" means a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(79) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(80) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(81) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) Definitions in other titles. The following definitions in other titles apply to this title:
"Applicant" § 8.5A-102.

"Beneficiary" § 8.5A-102.

"Broker" § 8.8A-102.

"Certificated security" § 8.8A-102.

"Check" § 8.3A-104.

"Clearing corporation" § 8.8A-102.

"Contract for sale" § 8.2-106.

"Control" § 8.7-106.

"Customer" § 8.4-104.

"Entitlement holder" § 8.8A-102.


"Holder in due course" § 8.3A-302.

"Issuer" (with respect to a letter of credit or letter-of-credit right) § 8.5A-102.

"Issuer" (with respect to a security) § 8.8A-201.

"Issuer" (with respect to documents of title) § 8.7-102.

"Lease" § 8.2A-103.

"Lease agreement" § 8.2A-103.

"Lease contract" § 8.2A-103.

"Leasehold interest" § 8.2A-103.

"Lessee" § 8.2A-103.

"Lessee in ordinary course of business" § 8.2A-103.

"Lessor" § 8.2A-103.

"Lessor's residual interest" § 8.2A-103.

"Letter of credit" § 8.5A-102.

"Merchant" § 8.2-104.

"Negotiable instrument" § 8.3A-104.

"Nominated person" § 8.5A-102.
Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 15.2-1507. Provision of grievance procedure; training programs.

A. If a local governing body fails to adopt a grievance procedure required by § 15.2-1506 or fails to certify it as provided in this section, the local governing body shall be deemed to have adopted a grievance procedure which is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as the locality remains in noncompliance. The locality shall provide its employees with copies of the applicable grievance procedure upon request. The term "grievance" as used herein shall not be interpreted to mean negotiations of wages, salaries, or fringe benefits.

Each grievance procedure, and each amendment thereto, in order to comply with this section, shall be certified in writing to be in compliance by the city, town or county attorney, and the chief administrative officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in the locality in which the procedure is to apply. Local government grievance procedures in effect as of July 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided above within a shorter time period.
Each grievance procedure shall include the following components and features:

1. Definition of grievance. A grievance shall be a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including dismissals, disciplinary demotions, and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance; (ii) the application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in subdivision 2 (iii) below; (iii) discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin or sex; and (iv) acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purposes of clause (iv) there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

2. Local government responsibilities. Local governments shall retain the exclusive right to manage the affairs and operations of government. Accordingly, the following complaints are nongrievable: (i) establishment and revision of wages or salaries, position classification or general benefits; (ii) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content; (iii) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations; (iv) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly; (v) the methods, means and personnel by which work activities are to be carried on; (vi) except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition; (vii) the hiring, promotion, transfer, assignment and retention of employees within the local government; and (viii) the relief of employees from duties of the local government in emergencies. In any grievance brought under the exception to clause (vi) of this subdivision, the action
shall be upheld upon a showing by the local government that: (i) there was a valid business reason for the action and (ii) the employee was notified of the reason in writing prior to the effective date of the action.

3. Coverage of personnel.
   a. Unless otherwise provided by law, all nonprobationary local government permanent full-time and part-time employees are eligible to file grievances with the following exceptions:
      (1) Appointees of elected groups or individuals;
      (2) Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
      (3) Deputies and executive assistants to the chief administrative officer of a locality;
      (4) Agency heads or chief executive officers of government operations;
      (5) Employees whose terms of employment are limited by law;
      (6) Temporary, limited term and seasonal employees;
      (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.
   b. Notwithstanding the exceptions set forth in subdivision 3 a above, local governments, at their sole discretion, may voluntarily include employees in any of the excepted categories within the coverage of their grievance procedures.
   c. The chief administrative officer of each local government, or his designee, shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4. Grievance procedure availability and coverage for employees of community services boards, redevelopment and housing authorities, and regional housing authorities. Employees of community services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii)
a grievance procedure established and administered by the department, board or authority which is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto. If a department, board or authority fails to establish a grievance procedure pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure which is consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant thereto for so long as it remains in noncompliance.

5. General requirements for procedures.
   a. Each grievance procedure shall include not more than four steps for airing complaints at successively higher levels of local government management, and a final step providing for a panel hearing or a hearing before an administrative hearing officer upon the agreement of both parties.
   b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.
   c. Nothing contained in this section shall prohibit a local government from granting its employees rights greater than those contained herein, provided such grant does not exceed or violate the general law or public policy of the Commonwealth.

6. Time periods.
   a. It is intended that speedy attention to employee grievances be promoted, consistent with the ability of the parties to prepare for a fair consideration of the issues of concern.
   b. The time for submitting an initial complaint shall not be less than 20 calendar days after the event giving rise to the grievance, but local governments may, at their option, allow a longer time period.
   c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant than the time which is allowed for local government response in each comparable situation.
   d. Time frames may be extended by mutual agreement of the local government and the grievant.

7. Compliance.
   a. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure, including the panel or administrative hearing, without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party
not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the chief administrative officer, or his designee.

b. The chief administrative officer, or his designee, at his option, may require a clear written explanation of the basis for just cause extensions or exceptions. The chief administrative officer, or his designee, shall determine compliance issues. Compliance determinations made by the chief administrative officer shall be subject to judicial review by filing petition with the circuit court within 30 days of the compliance determination.

8. Management steps.

a. The first step shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a nonwritten, discussion format.

b. Management steps shall provide for a review with higher levels of local government authority following the employee's reduction to writing of the grievance and the relief requested on forms supplied by the local government. Personal face-to-face meetings are required at all of these steps.

c. With the exception of the final management step, the only persons who may normally be present in the management step meetings are the grievant, the appropriate local government official at the level at which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony. At the final management step, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, local government likewise has the option of being represented by counsel.

9. Qualification for panel or administrative hearing.

a. Decisions regarding grievability and access to the procedure shall be made by the chief administrative officer of the local government, or his designee, at any time prior to the panel hearing, at the request of the local government or grievant, within 10 calendar days of the request. No city, town, or county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the
locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties. Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the chief administrative officer or his designee and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the chief administrative officer or his designee, or may reverse or modify the decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

10. Final hearings.

a. Qualifying grievances shall advance to either a panel hearing or a hearing before an administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

(1) If the grievance procedure adopted by the local governing body provides that the final step shall be an impartial panel hearing, the panel may, with the exception of those local governments covered by subdivision a (2) of this subsection, consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member. The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or
dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew, sibling's child, spouse's sibling's child, and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

(2) If the grievance procedure adopted by the local governing body provides for the final step to be an impartial panel hearing, local governments may retain the panel composition method previously approved by the Department of Human Resource Management and in effect as of the enactment of this statute. Modifications to the panel composition method shall be permitted with regard to the size of the panel and the terms of office for panel members, so long as the basic integrity and independence of panels are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized to make final and binding decisions.

(3) When a local government elects to use an administrative hearing officer rather than a three-person panel for the final step in the grievance procedure, the administrative hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative, the local government may request the appointment of an administrative hearing officer from the Department of Human Resource Management. If a local government elects to use an administrative hearing officer, it shall bear the expense of such officer's services.

(4) When the local government uses a panel in the final step of the procedure, there shall be a chairperson of the panel and, when panels are composed of three persons (one each selected by the respective parties and the third from an impartial source), the third member shall be the chairperson.

(5) Both the grievant and the respondent may call upon appropriate witnesses and be represented by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine,
question and present evidence on behalf of the grievant or respondent before the panel or hearing officer without being in violation of the provisions of § 54.1-3904.

(6) The decision of the panel or hearing officer shall be final and binding and shall be consistent with provisions of law and written policy.

(7) The question of whether the relief granted by a panel or hearing officer is consistent with written policy shall be determined by the chief administrative officer of the local government, or his designee, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the attorney for the Commonwealth of the jurisdiction in which the grievance is pending.

b. Rules for panel and administrative hearings.

Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such hearings. Rules which are promulgated shall include, but need not be limited to the following provisions:

(1) That neither the panels nor the hearing officer have authority to formulate policies or procedures or to alter existing policies or procedures;

(2) That panels and the hearing officer have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private;

(3) That the local government provide the panel or hearing officer with copies of the grievance record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

(4) That panels and hearing officers have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;

(5) That all evidence be presented in the presence of the panel or hearing officer and the parties, except by mutual consent of the parties;
(6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing officer in advance of the hearing;

(7) That the majority decision of the panel or the decision of the hearing officer, acting within the scope of its or his authority, be final, subject to existing policies, procedures and law;

(8) That the panel or hearing officer's decision be provided within a specified time to all parties; and

(9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence do not necessarily apply.

11. Implementation of final hearing decisions.

Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring implementation of the hearing decision.

B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under the provisions of this section which would result in the reinstatement of any employee of a sheriff's office, who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition of the locality. The review of the circuit court shall be limited to the question of whether the decision of the panel or hearing officer was consistent with provisions of law and written policy.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 15.2-2244. Provisions for subdivision of a lot for conveyance to a family member.

A. In any county a subdivision ordinance shall provide for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, including the family member's spouse, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have reasonable right-of-way of not less than 10 feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this section. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined
offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. In addition, any such
locality may include aunts, uncles, nieces and nephews, parent's siblings, parent's sibling's spouses,
sibling's children, and sibling's spouse's children in its definition of immediate family.

B. Notwithstanding subsection A, in a county having the urban county executive form of
government, a subdivision ordinance shall provide for reasonable provisions permitting a single division
of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner,
subject only to any express requirement contained in the Code of Virginia and to any requirement imposed
by the local governing body that all lots of less than five acres have frontage of not less than 10 feet or
more than 20 feet on a dedicated recorded public street or thoroughfare. Only one such division shall be
allowed per family member, and the division shall not be for the purpose of circumventing a local
subdivision ordinance. For the purpose of this subsection, a member of the immediate family is defined
as any person who is a natural or legally defined offspring or parent of the owner.

C. Notwithstanding subsections A and B, a subdivision ordinance may include reasonable
provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the
immediate family of the property owner in (i) any county or city which has had population growth of 10
percent or more from the next-to-latest to latest decennial census year, based on population reported by
the United States Bureau of the Census; (ii) any city or county adjoining such city or county; (iii) any
towns located within such county; and (iv) any county contiguous with at least three such counties, and
any town located in that county. Such divisions shall be subject to all requirements of the Code of Virginia
and to any requirements imposed by the local governing body.

Drafting note: Amendment replace gender-specific terms with gender-neutral ones.

If the judge or substitute judge of any district court:
(1) Be a party to an action;
(2) Be interested in the result of any action, otherwise than as resident or taxpayer of the city or
county;
(3) Be related to any party to the action as spouse, grandparent, parent, father-in-law, mother-in-law, child, grandchild, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, child-in-law, sibling, sibling-in-law, parent's sibling, parent's sibling's spouse, sibling's child, sibling's spouse's child, first cousin, guardian or ward;

(4) Be a material witness for either party to the action;

(5) Be counsel for any party to the action;

he shall not take cognizance thereof.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.


The clerk and deputy clerks shall be conservators of the peace within the territory for which the court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject to the limitations set forth by law, and issue subpoenas for witnesses, writs of fieri facias and writs of possession, attachments and garnishments and abstracts of judgments. A record made in the performance of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of subsection B of § 8.01-391.

No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, sibling, sibling-in-law, parent's sibling, parent's sibling's spouse, sibling's child, sibling's spouse's child, first cousin, guardian or ward. They may take affidavits and administer oaths and affirmations, take and certify depositions in the same manner as a notary public, perform such other notarial acts as allowed under § 47.1-12, take acknowledgments to deeds or other writings for purposes of recordation, and issue all other legal processes which may be issued by the judge of such court and exercise such other powers and perform such other duties as are conferred or imposed upon them by
law. The clerk may also issue to interested persons informational brochures authorized by a judge of such
court explaining the legal rights of such persons.

No clerk or deputy clerk shall be civilly liable for providing information or assistance that is within
the scope of his duties.

The clerk shall develop, implement and administer procedures necessary for the efficient operation
of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and
discharge such other duties as may be prescribed by the judge.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.


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

"Abused or neglected child" means any child:

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

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

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

4. Whose parents or other person responsible for his care commits or allows to be committed any
   sexual act upon a child in violation of the law;
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental 
or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco 
parentis;

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

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

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

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

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

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

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly 
structured components including, but not limited to, military style drill and ceremony, physical labor, 
education and rigid discipline, and no less than six months of intensive aftercare.
"Child," "juvenile," or "minor" means a person less than 18 years of age.

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

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

"Child in need of supervision" means:

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

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

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

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

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

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

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

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

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

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

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

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been 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 was in foster care on his 18th birthday and has not yet reached the age of 21 years. Such services shall include counseling, education, housing, employment, and money
management skills development and access to essential documents and other appropriate services to help

children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of

this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional

facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell

for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a

child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district

court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced

in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right

to have physical custody of the child, to determine and redetermine where and with whom he shall live,

the right and duty to protect, train and discipline him and to provide him with food, shelter, education and

ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status

created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in

which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and

agreement between the placing agency and the place of permanent foster care that the child shall remain

in the placement until he reaches the age of majority unless modified by court order or unless removed

pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of

any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with

the parent after the transfer of legal custody or guardianship of the person, including but not limited to the

right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility

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

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

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

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

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

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

**Drafting note:** Amendments replace gender-specific terms with gender-neutral ones and make technical changes consistent with Va. Code § 1-216.


The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;
2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100; or

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.
In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father, or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal
custodian or other person standing in loco parentis and is in the custody of the court when such consent is
required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,
(iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such
consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in
violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-
1817 or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
finds that such person has by overt act or omission induced, caused, encouraged or contributed to the
conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or
other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other
services that are required by law to be provided for that child or such child's parent, guardian, legal
custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and
not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his
parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or
neglect of children or with any violation of law that causes or tends to cause a child to come within the
purview of this law, or with any other offense against the person of a child. In prosecution for felonies
over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a
juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile
and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title
20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.
R. [Repealed.]
S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.
T. Petitions to enforce any request for information or subpoena that is not complied with or to
review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect
pursuant to § 63.2-1526.
U. Petitions filed in connection with parental placement adoption consent hearings pursuant to §
63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10
days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible
disposition.
V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent
to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the
laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.
W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an
abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without
the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough
informed to make her abortion decision, in consultation with her physician, independent of the wishes of
any authorized person, or (ii) the minor is not mature enough or well enough informed to make such
decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall
expressly state that such authorization is subject to the physician or his agent giving notice of intent to
perform the abortion; however, no such notice shall be required if the judge finds that such notice would
not be in the best interest of the minor. In determining whether notice is in the best interest of the minor,
the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the
best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly
and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either
abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person
standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint
a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall,
on her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern
proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records
of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending
matters so that the court may reach a decision promptly and without delay in order to serve the best
interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as
practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the
court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be
heard and decided no later than five days after the appeal is filed. The time periods required by this
subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent
or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this
subsection, the court before which the proceeding is pending shall immediately authorize a physician to
perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an
abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult
woman.
A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.
"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M, or R.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 18.2-357. Receiving money from earnings of prostitute; penalties.

Any person who shall knowingly receive any money or other valuable thing from the earnings of any male or female person engaged in prostitution, except for a consideration deemed good and valuable
in law, shall be guilty of pandering, punishable as a Class 4 felony. Any person who violates this section by receiving money or other valuable thing from a person under the age of 18 is guilty of a Class 3 felony.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 18.2-360. Competency of persons to testify in prosecutions under §§ 18.2-355 through 18.2-361.

Any male or female person referred to in §§ 18.2-355 through 18.2-361 shall be a competent witness in any prosecution under such sections to testify to any and all matters, including conversations by or with the accused with third persons in his or her presence, notwithstanding he or she may have married the accused either before or after the violation of any of the provisions of this section; but such witness shall not be compelled to testify after such marriage.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones and make technical changes consistent with Va. Code § 1-216.

§ 18.2-390. Definitions.

As used in this article:

(1) "Juvenile" means a person less than 18 years of age.

(2) "Nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
(6) "Harmful to juveniles" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly appeals to the prurient, shameful or morbid interest of juveniles, (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles, and (c) is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.

(7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both (a) the character and content of any material described herein which is reasonably susceptible of examination by the defendant, and (b) the age of the juvenile, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

(8) "Video or computer game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.

Drafting note: Amendments eliminate superfluous gender-specific terms.

§ 19.2-37. Magistrates; eligibility for appointment; restrictions on activities.

A. Any person who is a United States citizen and resident of the Commonwealth may be appointed to the office of magistrate under this title subject to the limitations of Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 and of this section.

B. Every person appointed as a magistrate on and after July 1, 2008, shall be required to have a bachelor's degree from an accredited institution of higher education. A person initially appointed as a magistrate prior to July 1, 2008, who continues in office without a break in service is not required to have a bachelor's degree from an accredited institution of higher education.

C. A person shall not be eligible for appointment as a magistrate under the provisions of this title: (a) if such person is a law-enforcement officer; (b) if such person or his spouse is a clerk, deputy or assistant clerk, or employee of any such clerk of a district or circuit court, provided that the Committee on District Courts may authorize a magistrate to assist in the district court clerk's office on a part-time basis;
c) if the parent, child, spouse, or sibling of such person is a district or circuit court judge in the magisterial region where he will serve; or (d) if such person is the chief executive officer, or a member of the board of supervisors, town or city council, or other governing body for any political subdivision of the Commonwealth.

D. No magistrate shall issue any warrant or process in complaint of his spouse, child, grandchild, parent, grandparent, parent-in-law, child-in-law, brother, sister, brother-in-law or sister-in-law, nephew, niece, uncle, aunt, sibling, sibling-in-law, parent's sibling, sibling's child, spouse's sibling's child, first cousin, guardian or ward.

E. A magistrate may not engage in any other activity for financial gain during the hours that he is serving on duty as a magistrate. A magistrate may not be employed outside his duty hours without the prior written approval of the Executive Secretary.

F. No person appointed as a magistrate on or after July 1, 2008, may engage in the practice of law.

G. A magistrate who is designated as a marriage celebrant under § 20-25 may not accept a fee, a gratuity, or any other thing of value for exercise of authority as a marriage celebrant.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 19.2-69. Civil action for unlawful interception, disclosure or use.

Any person whose wire, electronic or oral communication is intercepted, disclosed or used in violation of this chapter shall (i) have a civil cause of action against any person who intercepts, discloses or uses, or procures any other person to intercept, disclose or use such communications, and (ii) be entitled to recover from any such person:

1. Actual damages but not less than liquidated damages computed at the rate of $400 a day for each day of violation or $4,000, whichever is higher, provided that liquidated damages shall be computed at the rate of $800 a day for each day of violation or $8,000, whichever is higher, if the wire, electronic, or oral communication intercepted, disclosed, or used is between (i) a husband and wife persons married to each other; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed
marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice;

2. Punitive damages; and

3. A reasonable attorney's fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 22.1-30. Certain officers may not act on school board or serve as tie breaker.

A. No state, county, city or town officer, no deputy of any such officer, no member of the governing body of a county, city or town, no employee of a school board, and no father, mother, brother, sister parent, sibling, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law child, child-in-law, or brother-in-law sibling-in-law of a member of the county governing body may, during his term of office, be appointed as a member of the school board for such county, city or town or as tie breaker for such school board except:

1. Local directors of social services;

2. Commissioners in chancery;

3. Commissioners of accounts;

4. Registrars of vital records and health statistics;

5. Notaries public;

6. Clerks and employees of the federal government in the District of Columbia;

7. Medical examiners;

8. Officers and employees of the District of Columbia;

9. In Northumberland County, oyster inspectors;

10. In Lunenburg County, members of the county library board and members of the local board of social services;

11. Auxiliary deputy sheriffs and auxiliary police officers receiving less than five dollars in annual compensation;
12. Members of the town councils serving towns within Craig, Giles and Wise Counties; and

13. Public defenders.

B. Nothing in this section shall be construed to prohibit the election of deputies of constitutional
officers to school board membership, consistent with federal law and regulation.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 24.2-652. Voter whose name erroneously omitted from pollbook.

When a person offers to vote and his name does not appear on the pollbook, the officers of election
shall permit him to vote only if all of the following conditions are met:

1. An officer of election is informed by the general registrar that the voter is registered to vote, that
   his registration has not been cancelled, and that his name is erroneously omitted from the pollbook.

2. The voter signs a statement, subject to felony penalties for false statements pursuant to § 24.2-
   1016, that he is a qualified and registered voter of that precinct, a resident of that precinct, and his
   registration is not subject to cancellation pursuant to §§ 24.2-430, 24.2-431, and 24.2-432; and he
   provides, subject to such penalties, all the information required to identify himself including the last four
digits of his social security number, if any, full name including the maiden or any other prior legal name,
birthdate, and complete address.

3. The officer of election enters the identifying information for the voter on the pollbook.

When the voter has signed the statement and is permitted to vote, the officers of election shall
mark his name on the pollbook with the next consecutive number from the voter count form, or shall enter
that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that he has
signed the required statement in accordance with the instructions of the State Board.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted;
handling of provisional ballots; ballots cast after normal close of polls due to court order extending
polling hours.

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available
or cannot state that the person is registered to vote, then such person shall be allowed to vote by printed
ballot in the manner provided in this section. This procedure shall also apply when required by § 24.2-643
or 24.2-651.1.

Such person shall be given a printed ballot and provide, subject to the penalties for making false
statements pursuant to § 24.2-1016, on a green envelope supplied by the Department of Elections, the
identifying information required on the envelope, including the last four digits of his social security
number, if any, full name including the maiden or any other prior legal name, date of birth, complete
address, and signature. Such person shall be asked to present one of the forms of identification specified
in subsection B of § 24.2-643. The officers of election shall note on the green envelope whether or not the
voter has presented one of the specified forms of identification. The officers of election shall enter the
appropriate information for the person in the precinct provisional ballots log in accordance with the
instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor
otherwise mark his name as having voted. The officers of election shall provide an application for
registration to the person offering to vote in the manner provided in this section.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the
printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the
ballot shall then promptly be placed in the ballot container by an officer of election.

An officer of election, by a written notice given to the voter, shall (i) inform him that a
determination of his right to vote shall be made by the electoral board, (ii) advise the voter of the beginning
time and place for the board's meeting and of the voter's right to be present at that meeting, and (iii) inform
a voter voting provisionally when required by § 24.2-643 that he may submit a copy of one of the forms
of identification specified in subsection B of § 24.2-643 to the electoral board by facsimile, electronic
mail, in-person submission, or timely United States Postal Service or commercial mail delivery, to be
received by the electoral board no later than noon on the third day after the election. At the meeting, the
voter may request an extension of the determination of the provisional vote in order to provide information
to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall
have the authority to grant such extensions which it deems reasonable to determine the status of a
provisional vote.
B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All provisional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

The electoral board shall meet on the day following the election and determine whether each person having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in which he offered the provisional vote. If the board is unable to determine the validity of all the provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot an extension as provided in subsection A, the meeting shall stand adjourned, not to exceed seven calendar days from the date of the election, until the board has determined the validity of all provisional ballots offered in the election.

One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election shall be permitted to remain in the room in which the determination is being made as an observer so long as he does not participate in the proceedings and does not impede the orderly conduct of the determination. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to the electoral board a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation, such a designation may be made by the state or district chairman of the political party. However, no written designation made by a state or district chairman shall take precedence over a written designation made by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.
Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), attendance at meetings of the electoral board to determine the validity of provisional ballots shall be permitted only for the authorized representatives provided for in this subsection, for the persons whose provisional votes are being considered and their representative or legal counsel, and for appropriate staff and legal counsel for the electoral board.

If the electoral board determines that such person was not entitled to vote as a qualified voter in the precinct in which he offered the provisional vote, is unable to determine his right to vote, or has not been provided one of the forms of identification specified in subsection B of § 24.2-643, the envelope containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be counted if (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (b) the Department of Elections or the voter presents proof that indicates the voter submitted an application for registration to the Department of Motor Vehicles or other state-designated voter registration agency prior to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for registration based upon the application for registration submitted by the person pursuant to subsection A.

The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly registered or whose provisional vote was not counted.

If the electoral board determines that such person was entitled to vote, the name of the voter shall be entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and the ballot placed in a ballot container without any inspection further than that provided for in § 24.2-646.

On completion of its determination, the electoral board shall proceed to count such ballots and certify the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No adjustment shall be made to the statement of results for the precinct in which the person offered to vote. However, any voter who cast a provisional ballot and is determined by the electoral board to have been entitled to vote shall have his name included on the list of persons who voted that is submitted to the Department of Elections pursuant to § 24.2-406.
The certification of the results of the count together with all ballots and envelopes, whether open or unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any ballots marked after the normal polling hours by persons who were not already in line at the time the polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under this section. The officers of election shall mark the green envelope for each such provisional ballot to indicate that it was cast after normal polling hours due to the court order, and when preparing the materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as provided in subsection B; however, the counted and uncounted provisional ballots marked after the normal polling hours shall be kept separate from all other ballots and recorded in a separate provisional ballots pollbook. The Department of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to this section.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 30-19.4. Secretaries and administrative assistants for officers and members of General Assembly; staff personnel for standing committees.

The General Assembly shall provide for the employment of secretaries and administrative assistants for the Speaker of the House of Delegates, the President pro tempore of the Senate, the Majority and Minority Floor Leaders of the House of Delegates and Senate and members of the General Assembly to aid in the performance of duties incidental to the legislative process. Allowances for such secretaries and assistants shall be provided as set forth in the general appropriations act. Such allowances shall not be utilized for political purposes and shall be further conditioned upon such limitations and restrictions as shall be set forth in the general appropriations act. The session day per diem for each administrative assistant shall equal the amount authorized for members of the General Assembly as set forth in the general appropriations act.
The General Assembly shall provide for the employment of such clerks, counsel and other staff personnel for each of the standing committees as are approved by the Rules Committee of the appropriate house.

No member of the immediate family of a member of the General Assembly shall be eligible to receive any sum authorized under the provisions of this section. For the purpose of this section the spouse, parent, child, brother or sister sibling of the member shall be considered a member of the immediate family.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.


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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for election to the General Assembly in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this section upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections shall notify each such candidate of the provisions of this chapter.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the legislator's own governmental agency.
"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or volunteer service of a legislator or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided
for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than $20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, parent's sibling, parent's sibling's spouse, sibling's child, sibling's spouse's child, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister, or the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist's principal as defined in § 2.2-419.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the legislator and who is a dependent of the legislator.

"Legislator" means a member of the General Assembly.

"Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, $5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be
anticipated to exceed, $5,000 annually; (iv) ownership of real or personal property if the interest exceeds $5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that a legislator has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of a legislator in any matter considered by the General Assembly. Such personal interest exists when a legislator or a member of his immediate family has a personal interest in property or a business, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. A "personal interest in a transaction" exists only if the legislator or member of his immediate family or an individual or business represented or served by the legislator is affected in a way that is substantially different from the general public or from persons comprising a profession, occupation, trade, business or other comparable and generally recognizable class or group of which he or the individual or business he represents or serves is a member.

"Transaction" means any matter considered by the General Assembly, whether in a committee, subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which official action is taken or contemplated.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 32.1-46.01. Virginia Immunization Information System.

A. The Board of Health shall establish the Virginia Immunization Information System (VIIS), a statewide immunization registry that consolidates patient immunization histories from birth to death into
a complete, accurate, and definitive record that may be made available to participating health care providers throughout Virginia, to the extent funds are appropriated by the General Assembly or otherwise made available. The purposes of VIIS shall be to (i) protect the public health of all citizens of the Commonwealth, (ii) prevent under- and over-immunization of children, (iii) ensure up-to-date recommendations for immunization scheduling to health care providers and the Board, (iv) generate parental reminder and recall notices and manufacturer recalls, (v) develop immunization coverage reports, (vi) identify areas of under-immunized population, and (vii) provide, in the event of a public health emergency, a mechanism for tracking the distribution and administration of immunizations, immune globulins, or other preventive medications or emergency treatments.

B. The Board of Health shall promulgate regulations to implement the VIIS that shall address:

1. Registration of voluntary participants, including, but not limited to, a list of those health care entities that are authorized to participate and any forms and agreements necessary for compliance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services;

2. Procedures for confirming, continuing, and terminating participation and disciplining any participant for unauthorized use or disclosure of any VIIS data;

3. Procedures, timelines, and formats for reporting of immunizations by participants;

4. Procedures to provide for a secure system of data entry that may include encrypted online data entry or secure delivery of data files;

5. Procedures for incorporating the data reported on children's immunizations pursuant to subsection E of § 32.1-46;

6. The patient identifying data to be reported, including, but not limited to, the patient's name, date of birth, gender, telephone number, home address, birth place, and mother's maiden name the former surnames of the patient's parents;

7. The patient immunization information to be reported, including, but not necessarily limited to, the type of immunization administered (specified by current procedural terminology (CPT) code or Health
Level 7 (HL7) code); date of administration; identity of administering person; lot number; and if present, any contraindications, or religious or medical exemptions;

8. Mechanisms for entering into data-sharing agreements with other state and regional immunization registries for the exchange, on a periodic nonemergency basis and in the event of a public health emergency, of patient immunization information, after receiving, in writing, satisfactory assurances for the preservation of confidentiality, a clear description of the data requested, specific details on the intended use of the data, and the identities of the persons with whom the data will be shared;

9. Procedures for the use of vital statistics data, including, but not necessarily limited to, the linking of birth certificates and death certificates;

10. Procedures for requesting immunization records that are in compliance with the requirements for disclosing health records set forth in § 32.1-127.1:03; such procedures shall address the approved uses for the requested data, to whom the data may be disclosed, and information on the provisions for disclosure of health records pursuant to § 32.1-127.1:03;

11. Procedures for releasing aggregate data, from which personal identifying data has been removed or redacted, to qualified persons for purposes of research, statistical analysis, and reporting; and

12. Procedures for the Commissioner of Health to access and release, as necessary, the data contained in VIIS in the event of an epidemic or an outbreak of any vaccine-preventable disease or the potential epidemic or epidemic of any disease of public health importance, public health significance, or public health threat for which a treatment or vaccine exists.

The Board's regulations shall also include any necessary definitions for the operation of VIIS; however, "health care entity," "health care plan," and "health care provider" shall be as defined in subsection B of § 32.1-127.1:03.

C. The establishment and implementation of VIIS is hereby declared to be a necessary public health activity to ensure the integrity of the health care system in Virginia and to prevent serious harm and serious threats to the health and safety of individuals and the public. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the secure system established for VIIS without obtaining
consent or authorization for such disclosure. Such protected health information shall be used exclusively for the purposes established in this section.

D. The Board and Commissioner of Health, any employees of the health department, any voluntary participant, and any person authorized to report or disclose immunization data hereunder shall be immune from civil liability in connection therewith unless such person acted with gross negligence or malicious intent.

E. This section shall not diminish the responsibility of any physician or other person to maintain accurate patient immunization data or the responsibility of any parent, guardian, or person standing in loco parentis to cause a child to be immunized in accordance with the provisions of § 32.1-46. Further, this section shall not be construed to require the immunization of any person who objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, or any person for whom administration of immunizing agents would be detrimental to his health.

F. The Commissioner may authorize linkages between VIIS and other secure electronic databases that contain health records reported to the Department of Health, subject to all state and federal privacy laws and regulations. These health records may include newborn screening results reported pursuant to § 32.1-65, newborn hearing screening results reported pursuant to § 32.1-64.1, and blood-lead level screening results reported pursuant to § 32.1-46.1. Health care providers authorized to use VIIS may view the health records of individuals to whom the providers are providing health care services.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 32.1-102.3:2. Certificates of public need; applications to be filed in response to Requests for Applications (RFAs).

A. Except for applications for continuing care retirement community nursing home bed projects filed by continuing care providers registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 which comply with the requirements established in this section, the Commissioner shall approve, authorize or accept applications for the issuance of any certificate of public need pursuant to this article only in response to Requests for Applications (RFAs) for any project which
would result in an increase in the number of beds in a planning district in which nursing facility or extended care services are provided, except as provided in § 32.1-102.3:7.

B. The Board shall adopt regulations establishing standards for the approval and issuance of Requests for Applications by the Commissioner. The standards shall include, but shall not be limited to, a requirement that determinations of need take into account any limitations on access to existing nursing home beds in the planning districts. The RFAs, which shall be published at least annually, shall be jointly developed by the Department and the Department of Medical Assistance Services. RFAs shall be based on analyses of the need, or lack thereof, for increases in the nursing home bed supply in each of the Commonwealth's planning districts in accordance with standards adopted by the Board by regulation. The Commissioner shall only accept for review applications in response to such RFAs which conform with the geographic and bed need determinations of the specific RFA.

C. Sixty days prior to the Commissioner's approval and issuance of any RFA, the Board shall publish the proposed RFA in the Virginia Register for public comment together with an explanation of (i) the regulatory basis for the planning district bed needs set forth in the RFA and (ii) the rationale for the RFA's planning district designations. Any person objecting to the contents of the proposed RFA may notify, within 14 days of the publication, the Board and the Commissioner of his objection and the objection's regulatory basis. The Commissioner shall prepare, and deliver by registered mail, a written response to each such objection within two weeks of the date of receiving the objection. The objector may file a rebuttal to the Commissioner's response in writing within five days of receiving the Commissioner's response. If objections are received, the Board may, after considering the provisions of the RFA, any objections, the Commissioner's responses, and if filed, any written rebuttals of the Commissioner's responses, hold a public hearing to receive comments on the specific RFA. Prior to making a decision on the RFA, the Commissioner shall consider any recommendations made by the Board.

D. Except for a continuing care retirement community applying for a certificate of public need pursuant to provisions of subsections A, B, and C, applications for continuing care retirement community nursing home bed projects shall be accepted by the Commissioner only if the following criteria are met: (i) the facility is registered with the State Corporation Commission as a continuing care provider pursuant
Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, (ii) the number of new nursing home beds requested in the initial application does not exceed the lesser of 20 percent of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds, (iii) the number of new nursing home beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20 percent of its total number of beds that are not nursing home beds, and (iv) the continuing care retirement community has established a qualified resident assistance policy.

E. The Commissioner may approve an initial certificate of public need for nursing home beds in a continuing care retirement community not to exceed the lesser of 60 beds or 20 percent of the total number of beds that are not nursing home beds which authorizes an initial one-time, three-year open admission period during which the continuing care retirement community may accept direct admissions into its nursing home beds. The Commissioner may approve a certificate of public need for nursing home beds in a continuing care retirement community in addition to those nursing home beds requested for the initial one-time, three-year open admission period if (i) the number of new nursing home beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20 percent of its total number of beds that are not nursing beds, (ii) the number of licensed nursing home beds within the continuing care retirement community does not and will not exceed 20 percent of the number of occupied beds that are not nursing beds, and (iii) no open-admission period is allowed for these nursing home beds. Upon the expiration of any initial one-time, three-year open admission period, a continuing care retirement community which has obtained a certificate of public need for a nursing facility project pursuant to subsection D may admit into its nursing home beds (a) a standard contract holder who has been a bona fide resident of the non-nursing home portion of the continuing care retirement community for at least 30 days, (b) a person who is a standard contract holder who has lived in the non-nursing home portion of the continuing care retirement community for less than 30 days but who requires nursing home care due to change in health status since admission to the continuing care retirement community, (c) a person who is a family member of a standard contract holder residing in a non-nursing home portion of the continuing care retirement community, (d) a person who is an employee or a member
of the board of trustees or board of directors of the continuing care retirement community, (e) a person
who is a family member of an employee or a member of the board of trustees or board of directors of the
continuing care retirement community, or (f) a person who is an accredited practitioner of the religious
organization or denomination with which the continuing care retirement community is affiliated.

F. Any continuing care retirement community applicant for a certificate of public need to increase
the number of nursing home beds shall authorize the State Corporation Commission to disclose such
information to the Commissioner as may be in the State Corporation Commission's possession concerning
such continuing care retirement community in order to allow the Commissioner to enforce the provisions
of this section. The State Corporation Commission shall provide the Commissioner with the requested
information when so authorized.

G. For the purposes of this section:

"Family member" means spouse, mother, father, son, daughter, brother, sister, aunt, uncle, parent,
child, sibling, parent's sibling, or cousin by blood, marriage, or adoption.

"One-time, three-year open admission period" means the three years after the initial licensure of
nursing home beds during which the continuing care retirement community may take admissions directly
into its nursing home beds without the signing of a standard contract. The facility or a related facility on
the same campus shall not be granted any open admissions period for any subsequent application or
authorization for nursing home beds.

"Qualified resident assistance policy" means a procedure, consistently followed by a facility,
pursuant to which the facility endeavors to avoid requiring a resident to leave the facility because of
inability to pay regular charges and which complies with the requirements of the Internal Revenue Service
for maintenance of status as a tax exempt charitable organization under § 501(c)(3) of the Internal Revenue
Code. This policy shall be (i) generally made known to residents through the resident contract and (ii)
supported by reasonable and consistent efforts to promote the availability of funds, either through a special
fund, separate foundation or access to other available funds, to assist residents who are unable to pay
regular charges in whole or in part.
This policy may (a) take into account the sound financial management of the facility, including existing reserves, and the reasonable requirements of lenders and (b) include requirements that residents seeking such assistance provide all requested financial information and abide by reasonable conditions, including seeking to qualify for other assistance and restrictions on the transfer of assets to third parties. A qualified resident assistance policy shall not constitute the business of insurance as defined in Chapter 1 (§ 38.2-100 et seq.) of Title 38.2.

"Standard contract" means a contract requiring the same entrance fee, terms, and conditions as contracts executed with residents of the non-nursing home portion of the facility, if the entrance fee is no less than the amount defined in § 38.2-4900.

H. This section shall not be construed to prohibit or prevent a continuing care retirement community from discharging a resident (i) for breach of nonfinancial contract provisions, (ii) if medically appropriate care can no longer be provided to the resident, or (iii) if the resident is a danger to himself or others while in the facility.

I. The provisions of subsections D, E, and H shall not affect any certificate of public need issued prior to July 1, 1998; however, any certificate of public need application for additional nursing home beds shall be subject to the provisions of this act.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 32.1-127.1:03. Health records privacy.

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court
order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with
the regulations relating to change of ownership of health records promulgated by a health regulatory board
established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health
records of an individual, beyond the purpose for which such disclosure was made, without first obtaining
the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not,
however, prevent (i) any health care entity that receives health records from another health care entity
from making subsequent disclosures as permitted under this section and the federal Department of Health
and Human Services regulations relating to privacy of the electronic transmission of data and protected
health information promulgated by the United States Department of Health and Human Services as
required by the Health Insurance Portability and Accountability Act (HIPAA)(42 U.S.C. § 1320d et seq.)
or (ii) any health care entity from furnishing health records and aggregate or other data, from which
individually identifying prescription information has been removed, encoded or encrypted, to qualified
researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors,
for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services
research.

4. Health care entities shall, upon the request of the individual who is the subject of the health
record, disclose health records to other health care entities, in any available format of the requester's
choosing, as provided in subsection E.

B. As used in this section:

"Agent" means a person who has been appointed as an individual's agent under a power of attorney
for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

"Certification" means a written representation that is delivered by hand, by first-class mail, by
overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated
confirmation reflecting that all facsimile pages were successfully transmitted.

"Guardian" means a court-appointed guardian of the person.
"Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public or private entity, such as a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that performs either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

"Health care entity" means any health care provider, health plan or health care clearinghouse.

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

"Health plan" means an individual or group plan that provides, or pays the cost of, medical care.

"Health plan" includes any entity included in such definition as set out in 45 C.F.R. § 160.103.

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

"Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as payment or reimbursement for any such services.
"Individual" means a patient who is receiving or has received health services from a health care entity.

"Individually identifying prescription information" means all prescriptions, drug orders or any other prescription information that specifically identifies an individual.

"Parent" means a biological, adoptive or foster parent.

"Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a mental health professional, documenting or analyzing the contents of conversation during a private counseling session with an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record. "Psychotherapy notes" does not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act;

2. Except where specifically provided herein, the health records of minors; or

3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to § 16.1-248.3.

D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:

1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written authorization, pursuant to the individual's oral authorization for a health care provider or health plan to discuss the individual's health records with a third party specified by the individual;
2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be construed to prohibit any staff or employee of a health care entity from providing information about such individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 32.1-320, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2400.9, 54.1-2403.3, 54.1-2506, 54.1-2966, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;
9. When the individual has waived his right to the privacy of the health records;

10. When examination and evaluation of an individual are undertaken pursuant to judicial or administrative law order, but only to the extent as required by such order;

11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2;

12. To the guardian ad litem and any attorney appointed by the court to represent an individual who is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority or a designee of a community services board or behavioral health authority, or a law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, § 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any health care provider evaluating or providing services to the person who is the subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those provisions. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained;

14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or administrative proceeding, if the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health care entity of such order;
15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in accord with § 9.1-156;

16. To an agent appointed under an individual's power of attorney or to an agent or decision maker designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

17. To third-party payors and their agents for purposes of reimbursement;

18. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

21. Where necessary in connection with the implementation of a hospital's routine contact process for organ donation pursuant to subdivision B 4 of § 32.1-127;

22. In the case of substance abuse records, when permitted by and in conformity with requirements of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

24. If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian or committee appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter...
child, either parent, an adult brother or sister sibling, or any other relative of the deceased individual in order of blood relationship;

25. For the purpose of conducting record reviews of inpatient hospital deaths to promote identification of all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's designated organ procurement organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks;

26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2;

27. To an entity participating in the activities of a local health partnership authority established pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency medical services or has refused emergency medical services and the health records consist of the prehospital patient care report required by § 32.1-116.1;

29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law enforcement of the death if the health care entity has a suspicion that such death may have resulted from criminal conduct;
31. To law-enforcement officials if the health care entity believes in good faith that the information disclosed constitutes evidence of a crime that occurred on its premises;

32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed emergency medical services agency when the records consist of the prehospital patient care report required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks that are within the scope of his employment;

34. To notify a family member or personal representative of an individual who is the subject of a proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition, when the individual has the capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual has been provided an opportunity to object to the notification and does not express an objection, or (iii) the health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances that the individual does not object to the notification. If the opportunity to agree or object to the notification cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the health care provider may notify a family member or personal representative of the individual of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition if the health care provider, in the exercise of his professional judgment, determines that the notification is in the best interests of the individual. Such notification shall not be made if the provider has actual knowledge the family member or personal representative is currently prohibited by court order from contacting the individual;
35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education; and

36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or to improve their skills in group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

E. Health care records required to be disclosed pursuant to this section shall be made available electronically only to the extent and in the manner authorized by the federal Health Information Technology for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and implementing regulations. Notwithstanding any other provision to the contrary, a health care entity shall not be required to provide records in an electronic format requested if (i) the electronic format is not reasonably available without additional cost to the health care entity, (ii) the records would be subject to modification in the format requested, or (iii) the health care entity determines that the integrity of the records could be compromised in the electronic format requested. Requests for copies of or electronic access to health records shall (a) be in writing, dated and signed by the requester; (b) identify the nature of the information requested; and (c) include evidence of the authority of the requester to receive such copies or access such records, and identification of the person to whom the information is to be disclosed; and (d) specify
whether the requester would like the records in electronic format, if available, or in paper format. The
health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the requester
as if it were an original. Within 30 days of receipt of a request for copies of or electronic access to health
records, the health care entity shall do one of the following: (1) furnish such copies of or allow electronic
access to the requested health records to any requester authorized to receive them in electronic format if
so requested; (2) inform the requester if the information does not exist or cannot be found; (3) if the health
care entity does not maintain a record of the information, so inform the requester and provide the name
and address, if known, of the health care entity who maintains the record; or (4) deny the request (A) under
subsection F, (B) on the grounds that the requester has not established his authority to receive such health
records or proof of his identity, or (C) as otherwise provided by law. Procedures set forth in this section
shall apply only to requests for health records not specifically governed by other provisions of state law.

F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an
individual's health records shall not be furnished to such individual or anyone authorized to act on the
individual's behalf when the individual's treating physician or the individual's treating clinical
psychologist has made a part of the individual's record a written statement that, in the exercise of his
professional judgment, the furnishing to or review by the individual of such health records would be
reasonably likely to endanger the life or physical safety of the individual or another person, or that such
health record makes reference to a person other than a health care provider and the access requested would
be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies
a request for copies of or electronic access to health records based on such statement, the health care entity
shall inform the individual of the individual's right to designate, in writing, at his own expense, another
reviewing physician or clinical psychologist, whose licensure, training and experience relative to the
individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose
opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a
judgment as to whether to make the health record available to the individual.

The health care entity denying the request shall also inform the individual of the individual's right
to request in writing that such health care entity designate, at its own expense, a physician or clinical
psychologist, whose licensure, training, and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial is based and who did not participate in the original decision to deny the health records, who shall make a judgment as to whether to make the health record available to the individual. The health care entity shall comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall permit copying and examination of the health record by such other physician or clinical psychologist designated by either the individual at his own expense or by the health care entity at its expense.

Any health record copied for review by any such designated physician or clinical psychologist shall be accompanied by a statement from the custodian of the health record that the individual's treating physician or clinical psychologist determined that the individual's review of his health record would be reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to cause substantial harm to a person referenced in the health record who is not a health care provider.

Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his behalf.

G. A written authorization to allow release of an individual's health records shall substantially include the following information:

**AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS**

Individual's Name

Health Care Entity's Name

Person, Agency, or Health Care Entity to whom disclosure is to be made

Information or Health Records to be disclosed

Purpose of Disclosure or at the Request of the Individual
As the person signing this authorization, I understand that I am giving my permission to the above-named health care entity for disclosure of confidential health records. I understand that the health care entity may not condition treatment or payment on my willingness to sign this authorization unless the specific circumstances under which such conditioning is permitted by law are applicable and are set forth in this authorization. I also understand that I have the right to revoke this authorization at any time, but that my revocation is not effective until delivered in writing to the person who is in possession of my health records and is not effective as to health records already disclosed under this authorization. A copy of this authorization and a notation concerning the persons or agencies to whom disclosure was made shall be included with my original health records. I understand that health information disclosed under this authorization might be redisclosed by a recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health information was protected by law while solely in the possession of the health care entity.

This authorization expires on (date) or (event)

Signature of Individual or Individual's Legal Representative if Individual is Unable to Sign

Relationship or Authority of Legal Representative

Date of Signature

H. Pursuant to this subsection:

1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the
request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of the subpoena except by order of a court or administrative agency for good cause shown. When a court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces tecum is being issued shall have the duty to determine whether the individual whose health records are being sought is pro se or a nonparty.

In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall include the following language and the heading shall be in boldface capital letters:

**NOTICE TO INDIVIDUAL**

The attached document means that (insert name of party requesting or causing issuance of the subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the other party's attorney to your doctor, other health care providers (names of health care providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring them to produce your health records. Your doctor, other health care provider or other health care entity is required to respond by providing a copy of your health records. If you believe your health records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such
motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the administrative agency to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health care provider(s), or other health care entity, that you are filing the motion so that the health care provider or health care entity knows to send the health records to the clerk of court or administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an individual's health records shall include a Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

    NOTICE TO HEALTH CARE ENTITIES

    A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

    YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

    NO MOTION TO QUASH WAS FILED; OR

    ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.

    IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO
THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING PROCEDURE:

PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.

3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records until they have received a certification as set forth in subdivision 5 or 8 from the party on whose behalf the subpoena duces tecum was issued.

If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if the health care entity files a motion to quash the subpoena for health records, then the health care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency issuing the subpoena or in whose court or administrative agency the action is pending. The court or administrative agency shall place the health records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative agency. In the event the court or administrative agency grants the motion to quash, the health records shall be returned to the health care entity in the same sealed envelope in which they were delivered to the court or administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall
accompany any health records returned to the health care entity. The health records returned to the health care entity shall be in a securely sealed envelope.

5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to quash was filed. Any health care entity receiving such certification shall have the duty to comply with the subpoena duces tecum by returning the specified health records by either the return date on the subpoena or five days after receipt of the certification, whichever is later.

6. In the event that the individual whose health records are being sought files a motion to quash the subpoena, the court or administrative agency shall decide whether good cause has been shown by the discovering party to compel disclosure of the individual's health records over the individual's objections. In determining whether good cause has been shown, the court or administrative agency shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed health records have been submitted by a health care entity to the court or administrative agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no submitted health records should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon determining that only a portion of the submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena was issued and return the remaining health records to the health care entity in a sealed envelope.
8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously delivered to the court or administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health
records have previously been delivered to the court or administrative agency by the health care entity, the
health care entity shall return only those health records specified in the certification, consistent with the
court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the
certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual.

For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a controlled substance required to be reported to the Prescription Monitoring Program established pursuant
to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from
the Prescription Monitoring Program and contained in a patient's health care record to another health care
provider when such disclosure is related to the care or treatment of the patient who is the subject of the
record.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 32.1-162.1. Definitions.

As used in this article unless a different meaning or construction is clearly required by the context
or otherwise:

"Hospice" means a coordinated program of home and inpatient care provided directly or through
an agreement under the direction of an identifiable hospice administration providing palliative and
supportive medical and other health services to terminally ill patients and their families. A hospice utilizes
a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical,
psychological, social, spiritual and other special needs which are experienced during the final stages of
illness, and during dying and bereavement. Hospice care shall be available twenty-four hours a day, seven
days a week.

"Hospice facility" means an institution, place, or building owned or operated by a hospice provider
and licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis,
including respite and symptom management, to individuals requiring such care pursuant to the orders of
a physician. Such facilities with 16 or fewer beds are exempt from Certificate of Public Need laws and
regulations. Such facilities with more than 16 beds shall be licensed as a nursing facility or hospital and
shall be subject to Certificate of Public Need laws and regulations.

"Hospice patient" means a diagnosed terminally ill patient, with an anticipated life expectancy of
six months or less, who, alone or in conjunction with designated family members, has voluntarily
requested admission and been accepted into a licensed hospice program.

"Hospice patient's family" shall mean the hospice patient's immediate kin, including a spouse,
brother, sister, sibling, child or parent. Other relations and individuals with significant personal ties to the
hospice patient may be designated as members of the hospice patient's family by mutual agreement among
the hospice patient, the relation or individual, and the hospice team.

"Identifiable hospice administration" means an administrative group, individual or legal entity that
has a distinct organizational structure, accountable to the governing authority directly or through a chief
executive officer. This administration shall be responsible for the management of all aspects of the
program.

"Inpatient" means the provision of services, such as food, laundry, housekeeping, and staff to
provide health or health-related services, including respite and symptom management, to hospice patients,
whether in a hospital, nursing facility, or hospice facility.

"Interdisciplinary team" means the patient and the patient's family, the attending physician, and
the following hospice personnel: physician, nurse, social worker, and trained volunteer. Providers of
special services, such as clergy, mental health, pharmacy, and any other appropriate allied health services
may also be included on the team as the needs of the patient dictate.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and
focusing on the special needs of the patient and family as they experience the stress of the dying process,
rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation
of life.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 32.1-162.16. Definitions.

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

"Human research" means any systematic investigation, including research development, testing
and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized
knowledge. Human research shall not be deemed to include research exempt from federal research
regulation pursuant to 45 C.F.R. § 46.101(b).

"Informed consent" means the knowing and voluntary agreement, without undue inducement or
any element of force, fraud, deceit, duress, or other form of constraint or coercion, of a person who is
2628 capable of exercising free power of choice. For the purposes of human research, the basic elements of
2629 information necessary to such consent shall include:

2630 1. A reasonable and comprehensible explanation to the person of the proposed procedures or
2631 protocols to be followed, their purposes, including descriptions of any attendant discomforts, and risks
2632 and benefits reasonably to be expected;

2633 2. A disclosure of any appropriate alternative procedures or therapies that might be advantageous
2634 for the person;

2635 3. An instruction that the person may withdraw his consent and discontinue participation in the
2636 human research at any time without prejudice to him;

2637 4. An explanation of any costs or compensation which may accrue to the person and, if applicable,
2638 the availability of third party reimbursement for the proposed procedures or protocols; and

2639 5. An offer to answer and answers to any inquiries by the person concerning the procedures and
2640 protocols.

2641 "Institution" or "agency" means any facility, program, or organization owned or operated by the
2642 Commonwealth, by any political subdivision, or by any person, firm, corporation, association, or other
2643 legal entity.

2644 "Legally authorized representative" means, in the following specified order of priority, (i) the
2645 parent or parents having custody of a prospective subject who is a minor, (ii) the agent appointed under
2646 an advance directive, as defined in § 54.1-2982, executed by the prospective subject, provided the advance
2647 directive authorizes the agent to make decisions regarding the prospective subject's participation in human
2648 research, (iii) the legal guardian of a prospective subject, (iv) the spouse of the prospective subject, except
2649 where a suit for divorce has been filed and the divorce decree is not yet final, (v) an adult child of the
2650 prospective subject, (vi) a parent of the prospective subject when the subject is an adult, (vii) an adult
2651 brother or sister sibling of the prospective subject or (viii) any person or judicial or other body authorized
2652 by law or regulation to consent on behalf of a prospective subject to such subject's participation in the
2653 particular human research. For the purposes of this chapter, any person authorized by law or regulation to
2654 consent on behalf of a prospective subject to such subject's participation in the particular human research
shall include an attorney in fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney in fact shall not be employed by the person, institution, or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.

A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison, other correctional institution or in police custody, or who is an individual receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden death of any infant the Office of the Chief Medical Examiner shall be notified by the physician in attendance, hospital, law-enforcement officer, funeral director, or any other person having knowledge of such death. Good faith efforts shall be made by any person or institution having initial custody of the dead body to identify and to notify the next of kin of the decedent. Notification shall include informing the person presumed to be the next of kin that he has a right to have identification of the decedent confirmed without due delay and without being held financially responsible for any procedures performed for the purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Office of the Chief Medical Examiner upon transfer of the dead body.

B. Upon being notified of a death as provided in subsection A, the Office of the Chief Medical Examiner shall take charge of the dead body and the Chief Medical Examiner shall cause an investigation into the cause and manner of death to be made and a full report, which shall include written findings, to
be prepared. In order to facilitate the investigation, the Office of the Chief Medical Examiner is authorized to inspect and copy the pertinent medical records of the decedent whose death is the subject of the investigation. Full directions as to the nature, character, and extent of the investigation to be made in such cases shall be furnished each medical examiner appointed pursuant to § 32.1-282 by the Office of the Chief Medical Examiner, together with appropriate forms for the required reports and instructions for their use. The facilities and personnel of the Office of the Chief Medical Examiner shall be made available to any medical examiner investigating a death in accordance with this section. Reports and findings of the Office of the Chief Medical Examiner shall be confidential and shall not under any circumstance be disclosed or made available for discovery pursuant to a court subpoena or otherwise, except as provided in this chapter. Nothing in this subsection shall prohibit the Office of the Chief Medical Examiner from releasing the cause or manner of death or prohibit disclosure of reports or findings to the parties in a criminal case.

C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of any such report regarding the death of a victim of a traffic accident shall be furnished upon request to the State Police and the Highway Safety Commission. In addition, a copy of any autopsy report concerning an individual receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services shall be delivered to the Commissioner of Behavioral Health and Developmental Services and to the State Inspector General. A copy of any autopsy report concerning a prisoner committed to the custody of the Director of the Department of Corrections shall, upon request of the Director of the Department of Corrections, be delivered to the Director of the Department of Corrections. A copy of any autopsy report concerning a prisoner committed to any local correctional facility shall be delivered to the local sheriff or superintendent. Upon request, the Office of the Chief Medical Examiner shall release such autopsy report to the decedent's attending physician and to the personal representative or executor of the decedent. At the discretion of the Chief Medical Examiner, an autopsy report may be released to the following persons in the following order of priority: (i) the spouse of the decedent, (ii) an adult son or daughter child of the decedent, (iii) either parent of the decedent, (iv)
an adult sibling of the decedent, (v) any other adult relative of the decedent in order of blood relationship, or (vi) any appropriate health facility quality assurance program.

D. For each investigation under this article, including the making of the required reports, the medical examiner appointed pursuant to § 32.1-282 shall receive a fee established by the Board within the limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth if the deceased is not a legal resident of the county or city in which his death occurred. In the event the deceased is a legal resident of the county or city in which his death occurred, such county or city shall be responsible for the fee up to $20. If the deceased is an individual who receives services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services, the fee shall be paid by the Department of Behavioral Health and Developmental Services.

E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine obtaining of consent for removal of organs as conducted by surgical teams or others.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context clearly indicates otherwise:

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

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.
"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

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

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

"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.

"Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms "handicap" and "disability" shall be interchangeable.
"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" means, but shall not be limited to, any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"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" means, but shall not be limited to, 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.

"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, or handicap.

"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.
§ 38.2-3105. What contracts with respect to life insurance may be made by minors.

A. A minor who is at least fifteen years of age:

1. Shall be competent to contract for life insurance upon his own life for his own benefit or for the
   benefit of his ascending or descending kindred, spouse, brothers or sisters siblings;

2. May exercise every right, privilege and benefit provided by any life insurance policy on his own
   life, subject to the foregoing limitations as to designation of beneficiary; and

3. Shall not be permitted to recover any premiums paid on the policy solely because he is a minor.

B. If the minor resides with at least one of his parents, the application for the policy shall be
   approved in writing by the parent with whom he resides. No promissory note or other evidence of debt
   given by a minor in payment of any first year premium on a policy shall be validated by this section.

C. Any such minor shall be competent to give a valid discharge for any benefit accruing or money
   payable under the policy, and to create liens on the policy in favor of the insurer issuing the policy for
   money borrowed or for unpaid premiums and interest on the policy. However, any beneficiary or
   beneficiaries named in the policy who are then at least fifteen years of age shall unite in the discharge or
   in the instrument creating the lien.

§ 38.2-3438. Definitions.

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

"Child" means a son, daughter any child, stepchild, adopted child, including a child placed for
adoption, foster child or any other child eligible for coverage under the health benefit plan.

"Covered benefits" or "benefits" means those health care services to which an individual is entitled
under the terms of a health benefit plan.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual
covered by a health benefit plan.

"Dependent" means the spouse or child of an eligible employee, subject to the applicable terms of
the policy, contract, or plan covering the eligible employee.
"Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in (i) serious jeopardy to the mental or physical health of the individual, (ii) danger of serious impairment to bodily functions, (iii) serious dysfunction of any bodily organ or part, or (iv) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

"Emergency services" means with respect to an emergency medical condition: (i) a medical screening examination as required under § 1867 of the Social Security Act (42 U.S.C. § 1395dd) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition and (ii) such further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under § 1867 of the Social Security Act (42 U.S.C. § 1395dd (e)(3)) to stabilize the patient.


"Essential health benefits" include the following general categories and the items and services covered within the categories in accordance with regulations issued pursuant to the PPACA: (i) ambulatory patient services; (ii) emergency services; (iii) hospitalization; (iv) laboratory services; (v) maternity and newborn care; (vi) mental health and substance abuse disorder services, including behavioral health treatment; (vii) pediatric services, including oral and vision care; (viii) prescription drugs; (ix) preventive and wellness services and chronic disease management; and (x) rehabilitative and habilitative services and devices.

"Facility" means an institution providing health care related services or a health care setting, including but not limited to hospitals and other licensed inpatient centers; ambulatory surgical or treatment centers; skilled nursing centers; residential treatment centers; diagnostic, laboratory, and imaging centers; and rehabilitation and other therapeutic health settings.

"Genetic information" means, with respect to an individual, information about: (i) the individual's genetic tests; (ii) the genetic tests of the individual's family members; (iii) the manifestation of a disease
or disorder in family members of the individual; or (iv) any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by the individual or any family member of the individual. "Genetic information" does not include information about the sex or age of any individual. As used in this definition, "family member" includes a first-degree, second-degree, third-degree, or fourth-degree relative of a covered person.

"Genetic services" means (i) a genetic test; (ii) genetic counseling, including obtaining, interpreting, or assessing genetic information; or (iii) genetic education.

"Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, if the analysis detects genotypes, mutations, or chromosomal changes. "Genetic test" does not include an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition.

"Grandfathered plan" means coverage provided by a health carrier to (i) a small employer on March 23, 2010, or (ii) an individual that was enrolled on March 23, 2010, including any extension of coverage to an individual who becomes a dependent of a grandfathered enrollee after March 23, 2010, for as long as such plan maintains that status in accordance with federal law.

"Group health insurance coverage" means health insurance coverage offered in connection with a group health benefit plan.

"Group health plan" means an employee welfare benefit plan as defined in § 3(1) of ERISA to the extent that the plan provides medical care within the meaning of § 733(a) of ERISA to employees, including both current and former employees, or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services. "Health benefit plan" includes short-term and catastrophic health insurance policies, and a policy that pays on a cost-incurred basis, except as otherwise specifically exempted in this definition. "Health benefit plan" does not include the "excepted benefits" as defined in § 38.2-3431.
"Health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health care services consistent with state law.

"Health care provider" or "provider" means a health care professional or facility.

"Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, or health care services.

"Health maintenance organization" means a person licensed pursuant to Chapter 43 (§ 38.2-4300 et seq.).

"Health status-related factor" means any of the following factors: health status; medical condition, including physical and mental illnesses; claims experience; receipt of health care services; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; disability; or any other health status-related factor as determined by federal regulation.

"Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, which includes a health benefit plan provided to individuals through a trust arrangement, association, or other discretionary group that is not an employer plan, but does not include coverage defined as "excepted benefits" in § 38.2-3431 or short-term limited duration insurance. Student health insurance coverage shall be considered a type of individual health insurance coverage.

"Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"Managed care plan" means a health benefit plan that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by the health carrier.
"Network" means the group of participating providers providing services to a managed care plan.

"Open enrollment" means, with respect to individual health insurance coverage, the period of time during which any individual has the opportunity to apply for coverage under a health benefit plan offered by a health carrier and must be accepted for coverage under the plan without regard to a preexisting condition exclusion.

"Participating health care professional" means a health care professional who, under contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

"PPACA" means the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and as it may be further amended.

"Preexisting condition exclusion" means a limitation or exclusion of benefits, including a denial of coverage, based on the fact that the condition was present before the effective date of coverage, or if the coverage is denied, the date of denial, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before the effective date of coverage. "Preexisting condition exclusion" also includes a condition identified as a result of a pre-enrollment questionnaire or physical examination given to an individual, or review of medical records relating to the pre-enrollment period.

"Premium" means all moneys paid by an employer, eligible employee, or covered person as a condition of coverage from a health carrier, including fees and other contributions associated with the health benefit plan.

"Primary care health care professional" means a health care professional designated by a covered person to supervise, coordinate, or provide initial care or continuing care to the covered person and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

"Rescission" means a cancellation or discontinuance of coverage under a health benefit plan that has a retroactive effect. "Rescission" does not include:
1. A cancellation or discontinuance of coverage under a health benefit plan if the cancellation or discontinuance of coverage has only a prospective effect, or the cancellation or discontinuance of coverage is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage; or

2. A cancellation or discontinuance of coverage when the health benefit plan covers active employees and, if applicable, dependents and those covered under continuation coverage provisions, if the employee pays no premiums for coverage after termination of employment and the cancellation or discontinuance of coverage is effective retroactively back to the date of termination of employment due to a delay in administrative recordkeeping.

"Stabilize" means with respect to an emergency medical condition, to provide such medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or, with respect to a pregnant woman, that the woman has delivered, including the placenta.

"Student health insurance coverage" means a type of individual health insurance coverage that is provided pursuant to a written agreement between an institution of higher education, as defined by the Higher Education Act of 1965, and a health carrier and provided to students enrolled in that institution of higher education and their dependents, and that does not make health insurance coverage available other than in connection with enrollment as a student, or as a dependent of a student, in the institution of higher education, and does not condition eligibility for health insurance coverage on any health status-related factor related to a student or a dependent of the student.

"Wellness program" means a program offered by an employer that is designed to promote health or prevent disease.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 40.1-2. Definitions.

As used in this title, unless the context clearly requires otherwise, the following terms have the following meanings:

"Board" means the Safety and Health Codes Board.
"Business establishment" means any proprietorship, firm or corporation where people are employed, permitted or suffered to work, including agricultural employment on a farm.

"Commission" means the Safety and Health Codes Board.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

"Department" means the Department of Labor and Industry.

"Employ" shall include to permit or suffer to work.

"Employee" means any person who, in consideration of wages, salaries or commissions, may be permitted, required or directed by any employer to engage in any employment directly or indirectly.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee.

"Female" or "woman" means a female 18 years of age or over.

"Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators, conveyors, shafts, tunnels, including machinery being operated on farms in connection with the production or harvesting of agricultural products.

Drafting note: Amendment eliminates superfluous gender-specific terms; neither term is used in Title 40.1.


As used in this article:

A. "Employer" includes any individual, partnership, association, corporation, business trust, or any person or groups of persons acting directly or indirectly in the interest of an employer in relation to an employee;

B. "Employee" includes any individual employed by an employer, except the following:

1. Any person employed as a farm laborer or farm employee;
2. Any person employed in domestic service or in or about a private home or in an eleemosynary institution primarily supported by public funds;

3. Any person engaged in the activities of an educational, charitable, religious or nonprofit organization where the relationship of employer-employee does not, in fact, exist, or where the services rendered to such organizations are on a voluntary basis;

4. Newsboys, shoe-shine boys, caddies on golf courses, babysitters, ushers, doormen, concession attendants and cashiers in theaters;

5. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;

6. Any person under the age of 18 in the employ of his father, mother or legal guardian;

7. Any person confined in any penal or corrective institution of the State or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;

8. Any person employed by a boys' and/or girls' summer camp;

9. Any person under the age of 16, regardless of by whom employed;

10. Any person who normally works and is paid based on the amount of work done;

11. [Repealed.]

12. Any person whose employment is covered by the Fair Labor Standards Act of 1938 as amended;

13. Any person whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability;

14. Students participating in a bona fide educational program;

15. Any person employed by an employer who does not have four or more persons employed at any one time; provided that husbands, wives, sons, daughters, spouses, children, and parents of the employer shall not be counted in determining the number of persons employed;
16. Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school, provided the person is not employed more than 20 hours per week;

16A. Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education or trade school and is in a work-study program or its equivalent at the institution at which he or she is enrolled as a student;

17. Any person who is less than 18 years of age and who is under the jurisdiction and direction of a juvenile and domestic relations district court.

C. "Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; provided, wages may include the reasonable cost to the employer of furnishing meals and for lodging to an employee, if such board or lodging is customarily furnished by the employer, and used by the employee.

D. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.

Drafting note: Amendments replace gender-specific terms with gender neutral ones and make a technical change consistent with Va. Code § 1-216.

§ 40.1-122. Approval of agreement by Commissioner; signing.

No apprentice agreement under this chapter shall be effective until approved by the Commissioner.

Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in § 40.1-124, and by the apprentice, and, if the apprentice is a minor, by the minor's father or mother parent, provided, that if both father and mother parents be dead or legally incapable of giving consent or have abandoned their children, then by the guardian of the minor.

Drafting note: Amendments replace gender-specific terms with gender neutral ones.

§ 46.2-334.01. Licenses issued to persons less than 18 years old subject to certain restrictions.
A. Any learner's permit or driver's license issued to any person less than 18 years old shall be subject to the following:

1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and successfully completes a driver improvement clinic without having been directed to do so by the Commissioner or required to do so by a court.

2. If any person less than 19 years old is convicted a second time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial. Any person who has had his driver's license or privilege to operate a motor vehicle suspended in accordance with this subdivision may petition the juvenile and domestic relations district court of his residence for a restricted license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his place of employment, or an institution of higher education where he is enrolled, provided there is no other means of transportation by which such person may travel between his home and his place of employment or the institution of higher education where he is enrolled. On such petition the court may, in its discretion, authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the
person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall be valid solely for operation of a motor vehicle between such person's home and his place of employment or the institution of higher education where he is enrolled.

3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or denial.

4. In no event shall any person subject to the provisions of this section be subject to the suspension or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction or occurrence.

B. The initial license issued to any person younger than 18 years of age shall be deemed a provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old. After the first year the provisional license is issued, the holder may operate a motor vehicle with up to three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the driver's family or household. For the purposes of this subsection, "a member of the driver's family or household" means any of the following: (a) the driver's spouse, children, stepchildren, brothers, sisters, half-brothers, half-sisters, siblings, half-siblings, first cousins, and any individual who has a child in common with the driver, whether or not they reside in the same home with the driver; (b) the driver's brothers-in-law and sisters-in-law, siblings-in-law who reside in the same home with the driver; and (c) any individual who cohabits with the driver, and any children of such individual residing in the same home with the driver.
C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and volunteer emergency medical services personnel to emergency calls.

C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not hand-held.

D. The provisional driver's license restrictions in subsections B, C, and C1 shall expire on the holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B, C, or C1 shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's license restrictions in subsection B, C, or C1, in addition to any other penalties that may be imposed pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed six months.

E. A violation of subsection B, C, or C1 shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any such civil action.

F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.
Drafting note: Amendments replace gender-specific terms with gender neutral ones.

§ 46.2-335. Learner's permits; fees; certification required.

A. The Department, on receiving from any Virginia resident over the age of 15 years and six months an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's satisfactory documentation of meeting the requirements of this chapter and successful completion of the written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's permit, a motorcycle, on the highways, when accompanied by any licensed driver 21 years of age or older or by his parent or legal guardian, or by a brother, sister, half-brother, half-sister, step-brother, sibling, half-sibling, or step-sibling 18 years of age or older. The accompanying person shall be (i) alert, able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle instruction, providing immediate supervision from a separate accompanying motor vehicle and (ii) lawfully permitted to operate the motor vehicle or accompanying motorcycle at that time.

The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any minor applicant required to provide evidence of compliance with the compulsory school attendance law set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian, having custody of such minor, provides written authorization for the minor to obtain a learner's permit or motorcycle learner's permit, which written authorization shall be obtained on forms provided by the Department and indicating the Commonwealth's interest in the good academic standing and regular school attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or a certified copy of a court order of emancipation shall not be required to provide the certification of good academic standing or any written authorization from his parent or guardian to obtain a learner's permit or motorcycle learner's permit.

Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance
of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12 months. When a motorcycle learner's permit expires, the permittee may, upon submission of an application, payment of the application fee, and successful completion of the examinations, be issued another motorcycle learner's permit valid for 12 months.

Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions ordered by the court.

B. No driver's license shall be issued to any such person who is less than 18 years old unless, while holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall contain the following statement:

"It is illegal for anyone to give false information in connection with obtaining a driver's license. This certification is considered part of the driver's license application, and anyone who certifies to a false statement may be prosecuted. I certify that the statements made and the information submitted by me regarding this certification are true and correct."

Such form shall also include the driver's license or Department of Motor Vehicles-issued identification card number of the person making the certification.

C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old, except when participating in a driver education program approved by the Department of Education or a course offered by a driver training school licensed by the Department. This passenger limitation, however, shall not apply to the members of the driver's family or household as defined in subsection B of § 46.2-334.01.

D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and four o'clock a.m.
E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a
learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any
cellular telephone or any other wireless telecommunications device, regardless of whether or not such
device is handheld. No citation for a violation of this subsection shall be issued unless the officer issuing
such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other
 provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor
vehicle or any criminal statute.

F. A violation of subsection C, D, or E shall not constitute negligence, be considered in mitigation
of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any
action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor
vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any
such civil action.

G. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia
residence and, in the case of persons of school age, compliance with the compulsory school attendance
law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits
issued under this section.

H. For persons qualifying for a driver's license through driver education courses approved by the
Department of Education or courses offered by driver training schools licensed by the Department, the
application for the learner's permit shall be used as the application for the driver's license.

I. The Department shall charge a fee of $3 for each learner's permit and motorcycle learner's permit
issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund
of the state treasury; fees for issuance of motorcycle learner's permits shall be paid into the state treasury
and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It
shall be unlawful for any person, after having received a learner's permit, to drive a motor vehicle without
being accompanied by a licensed driver as provided in the foregoing provisions of this section; however,
a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that
the driver is at least 16 years and three months old and has successfully completed an approved driver's
education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco
parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a
licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such
temporary driver's license shall only be valid until the driver has received his permanent license pursuant
to § 46.2-336.

J. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a
person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's
License Act (§ 46.2-341.1 et seq.).

K. The following limitations shall apply to operation of motorcycles by all persons holding
motorcycle learner's permits:

1. The operator shall wear an approved safety helmet as provided in § 46.2-910.
2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
who is 21 years of age or older.
3. No person other than the operator shall occupy the motorcycle.

L. Any violation of this section shall be punishable as a Class 2 misdemeanor.

Drafting note: Amendments replace gender-specific terms with gender neutral ones.

§ 46.2-1500. Definitions.

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

"Affiliate" means any entity in which a manufacturer, factory branch, distributor, or distributor
branch has voting control or owns at least 51 percent of the ownership equity, or any entity in which
another entity has voting control or owns at least 51 percent of the ownership equity and also has voting
control and owns at least 51 percent of the ownership of a manufacturer, factory branch, distributor, or
distributor branch. An entity that provides vehicle purchase or lease financing that uses the name of the
manufacturer or distributor, or the name of any line make of the manufacturer or distributor, in the name
of the entity under which it transacts business with a consumer, other than in the name of an individual
product offered by the entity, shall be considered an "affiliate."

"Board" means the Motor Vehicle Dealer Board.
"Camping trailer" means a recreational vehicle constructed with collapsible partial side walls that fold for towing by a consumer-owned tow vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

"Certificate of origin" means the document provided by the manufacturer of a new motor vehicle, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motor vehicle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing, or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the provisions of subsection D of § 46.2-1530.

"Distributor" means a person who is licensed by the Department under this chapter and who sells or distributes new motor vehicles pursuant to a written agreement with the manufacturer to franchised motor vehicle dealers in the Commonwealth.

"Distributor branch" means a branch office licensed by the Department under this chapter and maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person who is licensed by the Department under this chapter and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.
"Factory representative" means a person who is licensed by the Department under this chapter and employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister sibling, or parent of the dealer or owner or (ii) has been employed continuously by the dealer for at least five years.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, offering and delivering pursuant to a lease, servicing, or offering, selling, and servicing new motor vehicles of a particular line-make or late model or used motor vehicles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motor vehicle or its manufacturer or distributor. "Franchise" includes any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or distributor that has a franchise agreement with a manufacturer or distributor.

"Franchised motor vehicle dealer" or "franchised dealer" means a dealer in new motor vehicles that has a franchise agreement with a manufacturer or distributor of new motor vehicles to sell new motor vehicles or to sell used motor vehicles under the trademark of a manufacturer or distributor regardless of the age of the motor vehicles.
"Fund" means the Motor Vehicle Dealer Board Fund.

"Independent motor vehicle dealer" means a dealer in used motor vehicles.

"Late model motor vehicle" means a motor vehicle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor. The line-make of a motorcycle manufacturer, factory branch, distributor, or distributor branch includes every brand of all-terrain vehicle, autocycle, and off-road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributor.

"Manufactured home dealer" means any person licensed as a manufactured home dealer under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

"Manufacturer" means a person who is licensed by the Department under this chapter and engaged in the business of constructing or assembling new motor vehicles and, in the case of trucks, recreational vehicles, and motor homes, also means a person engaged in the business of manufacturing engines, transmissions, power trains, or rear axles, when such engines, transmissions, power trains, or rear axles are not warranted by the final manufacturer or assembler of the truck, recreational vehicle, or motor home.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle within the term "farm tractor" or "moped" as defined in § 46.2-100. Except as otherwise provided, for the purposes of this chapter, all-terrain vehicles, autocycles, and off-road motorcycles are deemed to be motorcycles.

"Motor home" means a motorized recreational vehicle designed to provide temporary living quarters for recreational, camping, or travel use that contains at least four of the following permanently installed independent life support systems that meet the National Fire Protection Association standards for recreational vehicles: (i) a cooking facility with an onboard fuel source; (ii) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection; (iii) a toilet with exterior evacuation; (iv) a gas or electric refrigerator; (v) a heating or air conditioning
system with an onboard power or fuel source separate from the vehicle engine; or (vi) a 110-125 volt
electric power supply.

"Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter,
"motor vehicle" does not include (i) manufactured homes, sales of which are regulated under Chapter 4.2
(§ 36-85.16 et seq.) of Title 36; (ii) nonrepairable vehicles, as defined in § 46.2-1600; (iii) salvage vehicles,
as defined in § 46.2-1600; or (iv) mobile cranes that exceed the size or weight limitations as set forth in §
46.2-1105, 46.2-1110, or 46.2-1113 or Article 17 (§ 46.2-1122 et seq.) of Chapter 10.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on
conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit
or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new
and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by
him; or

2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor
vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or

3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles
within any 12 consecutive months.

For the purposes of Article 7.2 (§ 46.2-1573.2 et seq.), "dealer" means recreational vehicle dealer.
For the purposes of Article 7.3 (§ 46.2-1573.13 et seq.), "dealer" means trailer dealer and watercraft trailer
dealer. For the purposes of Article 7.4 (§ 46.2-1573.25 et seq.), "dealer" means motorcycle dealer.

"Motor vehicle dealer" or "dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons
appointed by or acting under judgment or order of any court or their employees when engaged in the
specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles
to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for
their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Persons dealing solely in the sale and distribution of funeral vehicles, including motor vehicles adapted thereto; however, this exemption shall not exempt any person from the provisions of §§ 46.2-1519, 46.2-1520, and 46.2-1548.

5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.

6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in conjunction with the sale of the parcel of land on which the manufactured home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under this chapter.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

14. The State Department of Social Services or local departments of social services.
15. Any person dealing solely in the sale and distribution of utility or cargo trailers that have
unloaded weights of 3,000 pounds or less; however, this exemption shall not exempt any person who deals
in stock trailers or watercraft trailers.

For the purposes of Article 7 (§ 46.2-1566 et seq.), "dealer" does not include recreational vehicle
dealers, trailer dealers, watercraft trailer dealers, or motorcycle dealers.

"Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee
by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a
commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons
employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person,
compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a
customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a
motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person
who is an independent contractor as defined by the United States Internal Revenue Code shall be deemed
not to be a motor vehicle salesperson.

"Motor vehicle show" means a display of motor vehicles to the general public at a location other
than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or
exchange during or as part of the display.

"New motor vehicle" means any vehicle, excluding trailers, that is in the possession of the
manufacturer, factory branch, distributor, distributor branch, or motor vehicle dealer and for which an
original title has not been issued by the Department or by the issuing agency of any other state and has
less than 7,500 miles accumulated on its odometer.

"New trailer" means any trailer that (i) has not been previously sold except in good faith for the
purpose of resale; (ii) has not been used as a rental, driver education, or demonstration trailer or for the
personal or business transportation of the manufacturer, distributor, dealer, or any of its employees; (iii)
has not been used except for limited use necessary in moving or road testing the trailer prior to delivery
to a customer; (iv) is transferred by a certificate of origin; and (v) has the manufacturer's certification that
it conforms to all applicable federal trailer safety and emission standards. Notwithstanding clauses (i) and
(iii), a trailer that has been previously sold but not titled shall be deemed a new trailer if it meets the requirements of clauses (ii), (iv), and (v).

"Original license" means a motor vehicle dealer license issued to an applicant who has never been licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been expired for more than 30 days.

"Recreational vehicle" or "RV" means a vehicle that (i) is either self-propelled or towed by a consumer-owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for recreational, camping, or travel use; and (iii) complies with all applicable federal vehicle regulations and does not require a special movement permit to legally use the highways. Recreational vehicle includes motor homes, travel trailers, and camping trailers.

"Relevant market area" means as follows:

1. For motor vehicle dealers except motorcycle dealers, in metropolitan localities the relevant market area shall be a circular area around an existing franchised dealer with a population of 250,000, not to exceed a radius of 10 miles, but in no case less than seven miles.

2. For motor vehicle dealers except motorcycle dealers, if the population in a circular area within a radius of 10 miles around an existing franchised dealer is less than 250,000, but the population in an area within a radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant market area shall be that circular area within the 15-mile radius.

3. For motor vehicle dealers except motorcycle dealers, in all other cases the relevant market area shall be a circular area within a radius of 20 miles around an existing franchised dealer or the area of responsibility defined in the franchise, whichever is greater. In any case where the franchise agreement is silent as to area of responsibility, the relevant market area shall be the greater of a circular area within a radius of 20 miles around an existing franchised dealer or that area in which the franchisor otherwise requires the franchisee to make significant retail sales or sales efforts.

4. For motorcycle dealers, the relevant market area shall be a circular area within a radius of 20 miles around an existing franchised dealer location with a population of one million or more. If the population within a 20-mile radius is less than one million but greater than 750,000, the relevant market
area shall be a circular area within a radius of 30 miles. If the population within a 30-mile radius is less than 750,000, the relevant market area shall be a circular area within a radius of 40 miles.

Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles with gross vehicle weight ratings of 26,000 pounds or greater, excluding recreational vehicles, the relevant market area with respect to the dealer's franchise for all such vehicles shall be a circular area around an existing franchised dealer with a radius of 25 miles, except where the population in such circular area is less than 250,000, in which case the relevant market area shall be a circular area around an existing franchised dealer with a radius of 50 miles, or the area of responsibility defined in the franchise, whichever is greater.

In determining population for relevant market areas, the most recent census by the U.S. Bureau of the Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

"Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and not for resale, in which the price of the vehicle is payable in one or more installments and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to consumers; a sale to one who intends to resell.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with another motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.
"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by another motor vehicle, including semitrailers but not manufactured homes, watercraft trailers, camping trailers, or travel trailers.

"Travel trailer" means a vehicle designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight so as not to require a special highway movement permit when towed by a consumer-owned tow vehicle.

"Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

"Watercraft trailer" means any new or used trailer specifically designed to carry a watercraft or a motorboat and purchased, sold, or offered for sale by a watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Watercraft trailer dealer" means any watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

Drafting note: Amendment replaces gender-specific terms with gender neutral ones.

§ 51.1-500. Definitions.

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

"Accident" means an accident covered under the group insurance coverage purchased by the Board.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Company" means insurance company.

"Contributor" means the same as that term is defined in § 23.1-700.

"Dependent child" means (i) the insured employee's unmarried natural or legally adopted children who are not self-supporting; (ii) the insured employee's unmarried stepchildren living full time with the insured employee in a parent-child relationship and who can be claimed as a dependent on the insured
employee's federal income tax return; (iii) any other children if they are in the insured employee's court-ordered custody; or (iv) other dependent children of the employee's family who are eligible for coverage under the family membership program offered under policies and procedures of the Department of Human Resource Management governing health insurance plans administered pursuant to § 2.2-1204 or § 2.2-2818.

"Dismemberment" means a dismemberment covered under the group insurance coverage purchased by the Board.

"Felonious assault" means a physical assault (i) by another person resulting in bodily harm to an insured employee; (ii) that takes place while such employee is performing his customary duties at the employer's normal place of business or at other places the employer's business requires him to travel; (iii) that involves the use of force or violence with the intent to cause harm; and (iv) that is a felony or misdemeanor under applicable law.

"Group insurance program" or "insurance program" means the plan covered under the policy purchased by the Board which provides group life, accidental death, and dismemberment insurance coverage for employees.

"Immediate family member" means the insured employee's spouse, children, parents, grandparents, grandchildren, brothers and sisters and their spouses.

"Qualifying child" means a dependent child less than eighteen years of age, or if eighteen years of age or older a dependent child enrolled in high school.

"Retirement System" means the Virginia Retirement System.

"Safety restraint system" means a properly installed seatbelt, lap and shoulder restraint or other restraint approved by the National Highway Traffic Safety Administration or any successor governmental agency. The term excludes an air bag safety system.

In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this chapter except as otherwise provided.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 53.1-133.10. (See Editor's note) Governor to execute; form of compact.
The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact that shall be in form substantially as follows:

The compacting states solemnly agree that:

ARTICLE I. The party states, desiring by common action to efficiently utilize and provide emergency medical, dental, and psychiatric care for prisoners of local correctional facilities, declare that it is the policy of each of the party states to cooperate with one another to serve the best interests of the prisoners and of the state and local governments in the convenient and economical provision of these services. The purpose of this compact is to provide for the mutual recognition of the control and authority over prisoners during transport to and from medical, dental, and psychiatric facilities across state boundaries.

ARTICLE II. As used in this compact, unless the context clearly requires otherwise:

1. "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

2. "Sending state" means a state party to this compact in which a prisoner in need of medical, dental, or psychiatric services is incarcerated.

3. "Receiving state" means a state party to this compact in which is located a medical, dental, or psychiatric facility.

4. "Prisoner" means an offender who is committed under sentence to or confined in a local correctional facility.

5. "Local correctional facility" means any penal or correctional facility or any jail, regional jail, jail farm, or other place used for the detention or incarceration of adult offenders that is owned, maintained, or operated by any political subdivision or combination of subdivisions of a state or a local government of a state.

ARTICLE III. Each party state agrees to extend all necessary authority to law-enforcement or corrections officers from a sending state while such officers have in their custody a prisoner for the purpose of escorting the prisoner to and from a medical, dental, or psychiatric facility located in the receiving state.
ARTICLE IV. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE V. This compact shall continue in force and remain binding upon a party state until the party state has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. No actual withdrawal shall take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE VI. The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Drafting note: Amendment eliminates superfluous gender-specific terms. Currently, no other jurisdictions have entered into this compact. Regardless, non-substantive differences in the text of an interstate compact do not affect the validity or enforcement of the terms of the compact. As the opening paragraph of this section provides, the compact is effective among jurisdictions that adopt its provisions "in form substantially" as adopted in Virginia. See Delgado v. Commonwealth, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts "constitute an agreement between the Commonwealth of Virginia and other states, territories and the United States, who join in a compact by enacting substantially the same provisions"). Cf. Sassoon v.
Stynchombe, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained differences, but were "substantively identical").

§ 53.1-216. Governor to execute; form of compact.

The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I.

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the Federal Government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs.

The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II.

As used in this compact, unless the context clearly requires otherwise:

a. "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

b. "Sending state" means a state party to this compact in which conviction or court commitment was had.

c. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

d. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.
e. "Institution" means any penal or correctional facility, including but not limited to a facility for individuals with mental illness or intellectual disability, in which inmates as defined in d above may lawfully be confined.

ARTICLE III.

a. Each party state may make one or more contracts with any one or more of the other party states, or with the Federal Government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) Its duration.

(2) Payments to be made to the receiving state or to the Federal Government, by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(3) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

(4) Delivery and retaking of inmates.

(5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

b. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV.

a. Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.
b. The appropriate officials of any state party to this compact shall have access, at all reasonable
times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting
the facilities thereof and visiting such of its inmates as may be confined in the institution.

c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be
subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a
prison or other institution within the sending state, for transfer to another institution in which the sending
state may have a contractual or other right to confine inmates, for release on probation or parole, for
discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending
state shall continue to be obligated to such payments as may be required pursuant to the terms of any
contract entered into under the terms of Article III.

d. Each receiving state shall provide regular reports to each sending state on the inmates of that
sending state in institutions pursuant to this compact including a conduct record of each inmate and certify
said record to the official designated by the sending state, in order that each inmate may have official
review of his or her record in determining and altering the disposition of said inmate in accordance with
the law which may obtain in the sending state and in order that the same may be a source of information
for the sending state.

e. All inmates who may be confined in an institution pursuant to the provisions of this compact
shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates
of the receiving state as may be confined in the same institution. The fact of confinement in a receiving
state shall not deprive any inmate so confined of any legal rights which said inmate would have had if
confined in an appropriate institution of the sending state.

f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled
by the laws of the sending state may be had before the appropriate authorities of the sending state, or of
the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities
for such hearings as may be conducted by the appropriate officials of a sending state. In the event such
hearing or hearings are had before officials of the receiving state, the governing law shall be that of the
sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said
record together with any recommendations of the hearing officials shall be transmitted forthwith to the
official or officials before whom the hearing would have been had if it had taken place in the sending
state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the
receiving state shall act solely as agents of the sending state and no final determination shall be made in
any matter except by the appropriate officials of the sending state.

g. Any inmate confined pursuant to this compact shall be released within the territory of the
sending state unless the inmate, and the sending and receiving states, shall agree upon release in some
other place. The sending state shall bear the cost of such return to its territory.

h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to
participate in and derive any benefits or incur or be relieved of any obligations or have such obligations
modified or his status changed on account of any action or proceeding in which he could have participated
if confined in any appropriate institution of the sending state located within such state.

i. The parents, guardian, trustee, or other person or persons entitled under the laws of the sending
state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted
in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V.

a. Any decision of the sending state in respect of any matter over which it retains jurisdiction
pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at
the time the sending state seeks to remove an inmate from an institution in the receiving state there is
pending against the inmate within such state any criminal charge or if the inmate is formally accused of
having committed within such state a criminal offense, the inmate shall not be returned without the consent
of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or
detention for such offense. The duly accredited officers of the sending state shall be permitted to transport
inmates pursuant to this compact through any and all states party to this compact without interference.

b. An inmate who escapes from an institution in which he is confined pursuant to this compact
shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In
the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for
institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI.

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally-aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII.

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII.

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX.

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.
ARTICLE X

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Drafting note: Amendments eliminate superfluous gender-specific terms and make a technical change consistent with Va. Code § 1-216. Similar construction is used by other member states to the compact. See, e.g., Iowa Code Ann. § 913.2 ("'Inmate' means an offender who is committed, under sentence to or confined in a penal or correctional institution."). Moreover, non-substantive differences in the text of an interstate compact do not affect the validity or enforcement of the terms of the compact. As the opening paragraph of this section provides, the compact is effective among jurisdictions that adopt its provisions "in form substantially" as adopted in Virginia. See Delgado v. Commonwealth, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts "constitute an agreement between the Commonwealth of Virginia and other states, territories and the United States, who join in a compact by enacting substantially the same provisions"). Cf. Sassoon v. Stynchombe, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained differences, but were "substantively identical").

§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.

A. The provisions of this chapter shall not apply to:

1. Any governmental agency performing work with its own forces;

2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;
3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;

4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;

5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;

6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;

7. Any person who performs or supervises the construction, removal, repair or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;

8. Any person who performs or supervises the construction, removal, repair or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, parent, child, sibling, grandchild, grandparent, mother-in-law and father-in-law, parent-in-law;

9. Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for his own use;

10. Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);

11. Any owner-developer, provided that any third-party purchaser is made a third-party beneficiary to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation to perform the contract extends to both the owner-developer and the third party;

12. Work undertaken by students as part of a career and technical education project as defined in § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter 13 of Title 22.1 for the construction of portable classrooms or single family homes;

13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or sanitizing services incidental to the construction, removal, repair, or improvement of real property; and
14. Work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at $2,500 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the residential or commercial building contractor classification. However, any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified in accordance with this chapter.

All other contractors performing work for any government or for any governmental agency are subject to the provisions of this chapter and are required to be licensed as provided herein.

B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7, 10, 11, or 12 shall obtain a certificate of occupancy for any building constructed, repaired or improved by him prior to conveying such property to a third-party purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.

C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9, 10, 11, or 12 of subsection A shall comply with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

D. Any person who violates the provisions of subsection B or C shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction of violating subsection B or C during a 36-month period shall constitute a Class 6 felony.

**Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

§ 54.1-2800. Definitions.

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

"Advertisement" means any information disseminated or placed before the public.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.
"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the process of chemically treating the dead human body by arterial injection and cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth of microorganisms to temporarily retard organic decomposition.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch, or chapel that is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing, the practice of funeral services, or the act of embalming is performed.

"Funeral service intern" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following persons, regardless of the relationship to the decedent:

- any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child aged 18 years or older, parent of a decedent aged 18 years or older, custodial parent or noncustodial parent of a decedent younger than 18 years of age, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal parent's siblings over 18 years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements
for the funeral service or for the financing of the funeral service and the selling or making of financial
arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

Drafting note: Amendments replace gender-specific terms with gender neutral ones.

§ 54.1-2986. Procedure in absence of an advance directive; procedure for advance directive without agent; no presumption; persons who may authorize health care for patients incapable of informed decisions.

A. Whenever a patient is determined to be incapable of making an informed decision and (i) has not made an advance directive in accordance with this article or (ii) has made an advance directive in accordance with this article that does not indicate his wishes with respect to the health care at issue and does not appoint an agent, the attending physician may, upon compliance with the provisions of this section, provide, continue, withhold or withdraw health care upon the authorization of any of the following persons, in the specified order of priority, if the physician is not aware of any available, willing and capable person in a higher class:

1. A guardian for the patient. This subdivision shall not be construed to require such appointment in order that a health care decision can be made under this section; or

2. The patient's spouse except where a divorce action has been filed and the divorce is not final; or

3. An adult child of the patient; or

4. A parent of the patient; or

5. An adult brother or sister sibling of the patient; or
6. Any other relative of the patient in the descending order of blood relationship; or

7. Except in cases in which the proposed treatment recommendation involves the withholding or withdrawing of a life-prolonging procedure, any adult, except any director, employee, or agent of a health care provider currently involved in the care of the patient, who (i) has exhibited special care and concern for the patient and (ii) is familiar with the patient's religious beliefs and basic values and any preferences previously expressed by the patient regarding health care, to the extent that they are known. A quorum of a patient care consulting committee as defined in § 54.1-2982 of the facility where the patient is receiving health care or, if such patient care consulting committee does not exist or if a quorum of such patient care consulting committee is not reasonably available, two physicians who (a) are not currently involved in the care of the patient, (b) are not employed by the facility where the patient is receiving health care, and (c) do not practice medicine in the same professional business entity as the attending physician shall determine whether a person meets these criteria and shall document the information relied upon in making such determination.

If two or more of the persons listed in the same class in subdivisions A 3 through A 7 with equal decision-making priority inform the attending physician that they disagree as to a particular health care decision, the attending physician may rely on the authorization of a majority of the reasonably available members of that class.

B. Regardless of the absence of an advance directive, if the patient has expressed his intent to be an organ donor in any written document, no person noted in this section shall revoke, or in any way hinder, such organ donation.

Drafting note: Amendment replaces gender-specific terms with gender neutral ones.

§ 57-27.3. Authorization for interment.

A cemetery may accept the notarized signature of one next of kin of a decedent for the purpose of authorizing the interment or entombment, and for erecting a memorial on the grave, crypt or niche, unless the cemetery is on written notice that there exists a dispute between next of kin over such interment, entombment or memorialization. In the case of such a dispute, the cemetery shall have no obligation to
perform the interment, entombment or memorialization until there is agreement of all next of kin, or a
court order adjudicating the issue among all necessary parties.

For purposes of this section, "next of kin" means any of the following persons, regardless of the
relationship to the decedent: any person designated to make arrangements for the disposition of the
decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over 18 years of age,
custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of
minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age and
paternal parent's siblings over 18 years of age, or any other relative in the descending order of blood
relationship.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;

2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;

3. Registered in the name of a volunteer fire department or volunteer emergency medical services
   agency not operated for profit;

4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any
   other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
   lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, daughter child, or parent of the transferor. With the exception of a gift
to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental
to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or
   from a corporation or limited liability company to an individual or partnership if the transfer is incidental
to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or
   b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;
16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has
passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the
trustees holding title to the motor vehicle;

24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named
in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the
death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either
case;

25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if
the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with
respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the
lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid
to the Commonwealth by the lessee purchasing the vehicle;

26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,
of such deceased person;

27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such all-
terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other vehicle
subject to the tax imposed under this chapter;

28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3)
of the Internal Revenue Code and that is primarily used by the organization to transport to markets for
sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted
the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or
(ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded
to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the
Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of
purchase.

Drafting note: Amendment replaced gender-specific terms with gender-neutral ones.

As used in this chapter, the following terms shall have the following meanings unless the context requires otherwise:

"Dealer" means any person who purchases motor fuel for sale to the general public for ultimate consumption. "Dealer" shall not mean any person, including any affiliate of such person, who (i) purchases motor fuel for sale, consignment, or distribution to another; (ii) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier; or (iii) who is an employee of, or merely serves as a common carrier providing transportation service, for such person.

"Designated family member" means the adult spouse, adult child or stepchild, or adult brother or sister of the dealer who is designated in the franchise agreement as the successor to the dealer's interest under the agreement and who shall become the dealer upon the completion of the succession.

"Franchise" or "franchise agreement" means any agreement, express or implied, between a refiner and a dealer under which a refiner authorizes or permits a dealer to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner.

"Franchise" or "franchise agreement" shall also mean any agreement, express or implied, under which a dealer is granted the right to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner.

"Franchise fee" means any fee or charge that a dealer is required to pay or agrees to pay for the right to enter into a franchise agreement or to become a dealer at the premises to which the franchise agreement relates. The term "franchise fee" shall not include reasonable actual costs and expenses incurred by the refiner in effecting the assignment, transfer, or sale.

"Franchisor" means a refiner who authorizes or permits, under a franchise, a dealer to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

"Jobber/distributor" means any person, including any affiliate of such person, who (i) purchases motor fuel for sale, consignment, or distribution to another; or (ii) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not
include a person who is an employee of, or merely serves as a common carrier providing transportation
service for, such supplier.

"Newly remodeled facility" means a retail outlet, marketing premises, or leased marketing
premises which, within an 18-month period, has been rebuilt, renovated, or reconstructed at a cost of (i)
for facilities remodeled before January 1, 2004, a minimum of $560,000; or (ii) for facilities remodeled
on or after January 1, 2004, a minimum of $560,000 plus an amount reflecting the annual rate of inflation,
such amount to be calculated on January 1 of each year by the Commissioner of the Department of
Agriculture and Consumer Services by referring to the Consumer Price Index published by the United

"Operation of a retail outlet" means the ownership or option to buy a properly zoned parcel of
property for which a permit to build a retail outlet has been granted.

"Petroleum products" or "motor fuel" means gasoline and diesel fuel of a type distributed for use
as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

"Profit" means the net gain, for income tax purposes, realized by the dealer upon the assignment,
transfer, or sale of the franchise agreement.

"Refiner" means any person engaged in the refining of crude oil to produce motor fuel and includes
any affiliate of such person.

"Retail" means the sale of petroleum products for purposes other than resale.

"Retail outlet," "marketing premises," or "leased marketing premises" means the premises at which
petroleum products are sold to the general public.

"Trial franchise" means the same as provided in the Petroleum Marketing Practices Act (15 U.S.C.
§ 2803 et seq.).

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 59.1-352.1. Definitions.

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

"Agreement" means a written or oral contract or agreement between a dealer and a wholesaler,
manufacturer, or distributor by which the dealer is granted one or more of the following rights:
1. To sell or distribute goods or services.

2. To use a trade name, trademark, service mark, logo type, or advertising or other commercial symbol.

"Current model" means a model listed in the wholesaler's, manufacturer's, or distributor's current sales manual or any supplements.

"Current net price" means the price listed in the supplier's price list or catalog in effect at the time the agreement is terminated, less any applicable discounts allowed.

"Dealer" means a person engaged in the business of selling at retail farm, construction, utility or industrial equipment, implements, machinery, attachments, outdoor power equipment, or repair parts.

"Family member" means a spouse, brother, sister sibling, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law parent-in-law, child-in-law, stepparent, or stepchild, or a lineal descendant of the dealer or principal owner of the dealership.

"Good cause" means failure by a dealer to comply with requirements imposed upon the dealer by the agreement if the requirements are not different from those imposed on other dealers similarly situated in this Commonwealth. In addition, good cause exists in any of the following circumstances:

1. A petition under bankruptcy or receivership law has been filed against the dealer.

2. The dealer has made an intentional misrepresentation with the intent to defraud the supplier.

3. Default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier or a revocation or discontinuance of a guarantee of a present or future obligation of the retailer to the supplier.

4. Closeout or sale of a substantial part of the dealer's business related to the handling of goods; the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation; or a change, without the prior written approval of the supplier, which shall not be unreasonably withheld, in the location of the dealer's principal place of business or additional locations set forth in the agreement.

5. Withdrawal of an individual proprietor, partner, major shareholder, or manager of the dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written consent of the supplier.
6. Revocation or discontinuance of any guarantee of the dealer's present or future obligations to the supplier.

7. The dealer has failed to operate in the normal course of business for seven consecutive business days or has otherwise abandoned the business.

8. The dealer has pleaded guilty to or has been convicted of a felony affecting the relationship between the dealer and the supplier.

9. The dealer transfers an interest in the dealership, or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies, or a substantial reduction occurs in the interest of a partner or major shareholder in the dealership.

"Inventory" means farm implements and machinery, construction, utility and industrial equipment, consumer products, outdoor power equipment, attachments, or repair parts.

"Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

"Superseded part" means any part that will provide the same function as a currently available part as of the date of cancellation.

"Supplier" means a wholesaler, manufacturer, distributor, or any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, any receiver or assignee, or any trustee of the original manufacturer, wholesaler, or distributor who enters into an agreement with a dealer.

"Termination" of an agreement means the termination, cancellation, nonrenewal, or noncontinuance of the agreement.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.


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

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of
Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $0.10.

"Commission" means the Virginia Racing Commission.

"Dependent" means a son, daughter, father, mother, brother, sister, child, parent, sibling, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Commission.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Licensee" includes any person holding an owner's or operator's license under Article 2 (§ 59.1-375 et seq.).

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and
includes pari-mutuel wagering on simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

"Participant" means any person who (i) has an ownership interest in any horse entered to race in the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner, trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other position the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia.

"Permit holder" includes any person holding a permit to participate in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as provided in § 59.1-387.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Pool" means the amount wagered during a race meeting or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of the stock of any person which is a licensee, or who in concert with his spouse and immediate family members, has the power to vote or cause the vote of five percent or more of any such stock. However, "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Commission.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is licensed by the Commission.
"Recognized majority horsemen's group" means the organization recognized by the Commission as the representative of the majority of owners and trainers racing at race meetings subject to the Commission's jurisdiction.

"Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee to the Commission and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law, regulation or contract approved by the Commission.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

"Significant infrastructure facility" means a horse racing facility that has been approved by a local referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

"Significant infrastructure limited licensee" means a person who owns or operates a significant infrastructure facility and holds a limited license under § 59.1-376.

"Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any other means for the purposes of conducting pari-mutuel wagering.

"Steward" means a racing official, duly appointed by the Commission, with powers and duties prescribed by Commission regulations.

"Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated person if the Commission finds that the holder of such interest or stock derives therefrom such control of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.
"Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses in the Commonwealth of Virginia.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 60.2-219. Services not included in term "employment."

The term "employment" shall not include:

1. Service performed in the employ of the United States government or of any instrumentality of the United States which is wholly or partially owned by the United States or which is exempt from the tax imposed by § 3301 of the Federal Internal Revenue Code by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

2. Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress, including service performed after June 30, 1939, for an employer determined to be subject to the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.) by the agency or agencies empowered to make such determination by an act of Congress, and service as an employer representative determined to be subject to such act by such agency or agencies.

The Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective 10 days after publication thereof, in the manner provided in § 60.2-111 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this title, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this title;

3. Agricultural labor as defined in § 60.2-201 except as provided for in § 60.2-214;

4. Domestic service in a private home, local college club or local chapter of a college fraternity or sorority except as provided for in § 60.2-215;

5. Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an employee, if the employee is employed on and in connection with such vessel or aircraft when outside the United States;
6. Service performed by an individual in, or as an officer or member of the crew of, a vessel while it is engaged in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including service performed by any such individual as an ordinary incident to any such activity, except (i) service performed in connection with the catching or taking of salmon or halibut for commercial purposes and (ii) service performed on or in connection with a vessel of more than 10 net tons, determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States;

6a. Service performed by an individual on a boat engaged in catching fish or other forms of aquatic life under an arrangement with the owner or operator of such boat pursuant to which:

a. Such individual does not receive any cash remuneration, other than as provided in subdivision b;

b. Such individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, or a share of the proceeds from the sale of such catch; and

c. The amount of such individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of such boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat is normally made up of fewer than 10 individuals;

7. Service performed by an individual in the employ of his son, daughter, child or spouse and service performed by a child under the age of 21 in the employ of his father or mother parent;

8. Service performed in any calendar quarter in the employ of any organization exempt from income tax (i) under § 501(a) of the Federal Internal Revenue Code (26 U.S.C.), other than an organization described in § 401(a) of such Code, or (ii) under § 521 of the Federal Internal Revenue Code, if the remuneration for such service is less than $50;

9. Service performed in the employ of a school or institution of higher education, if such service is performed by a student who is enrolled and is regularly attending classes at such school or institution;
10. Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law;

11. Service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

12. Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

13. Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

14. Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election are deemed to be performed entirely within such agency's state or under such federal law;

15. Service performed by an individual for an employing unit as an agent in the wholesale distribution and sale of gasoline and other petroleum products, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

16. Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under clause (i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter;
17. a. Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on. In order for such services to be excluded from "employment":

(1) The individual shall be enrolled as a student in a full-time program,
(2) The program shall be taken for credit at such institution,
(3) The program combines academic instruction with work experience, and
(4) Such service shall be an integral part of such program.

b. Such institution shall certify to the employer that subdivisions 17 a (1) through 17 a (4) have been met.

c. This subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

18. Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in § 60.2-221;

19. Services provided by an individual pursuant to an agreement among the service recipient, a public human services agency as defined in § 15.2-2811, and such individual to an eligible service recipient in his own home or the home of the service provider, unless coverage of such services is required by the provisions of § 3304(a)(6)(A) of the Federal Unemployment Tax Act;

20. Services performed by an individual as a "direct seller" provided that:

a. Such person:

(1) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations for resale by the buyer or any other person in the home or otherwise than in a permanent retail establishment;
(2) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to a consumer in the home or otherwise than in a permanent retail establishment; or
(3) Is engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any delivery services directly related to such trade or business).

b. Substantially all of the remuneration for the services performed as a direct seller, whether or not paid in cash, is directly related to sales or output, including the performances of services, rather than to the number of hours worked;

c. The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes;

21. Service performed after July 1, 1984, by an individual as a taxicab driver, or as a driver of an executive sedan as defined in § 46.2-2000, provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

22. Services performed by an individual as a "contract carrier courier driver" provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

23. Services performed by a full-time student in the employ of an organized camp if:

a. Such camp:

   (1) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

   (2) Had average gross receipts for any six months in the preceding calendar year which were not more than 33- 1/3 percent of its average gross receipts for the other six months in the preceding calendar year; and

b. Such full-time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year;

24. Services performed by an individual as a court reporter for an employing unit if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
25. Services performed by an individual as a cosmetologist or as a barber provided the Commission is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax Act;

26. Services performed by a licensed clinical social worker as defined in § 54.1-3700, licensed psychologist as defined in § 54.1-3600, licensed professional counselor as defined in § 54.1-3500, licensed psychiatrist, or licensed marriage and family therapist as defined in § 54.1-3500, if such individual:
   a. Operates under a contract specifying that the individual is free from control or direction over the performance of such services;
   b. Is licensed in the Commonwealth to perform independent clinical services;
   c. Is compensated solely by way of fees charged for services rendered by such individual; and
   d. Has a valid business license issued by the locality in which such individual performs such services; and

27. Services performed by an inmate for a penal or custodial institution or while participating in the Diversion Center Incarceration Program pursuant to § 19.2-316.3.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 63.2-510. Obligation of person to support certain children living in same home; penalty.

A person shall be responsible for the support and maintenance of any child or children living in the same home in which he and the natural or adoptive parent of such child or children cohabit as man and wife spouses and any such person who without cause willfully neglects or refuses or fails to provide for such support and maintenance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of § 20-61.

A pregnancy or the birth of a child during the time a person occupies the status set out above shall not be required as proof of cohabitation.

The obligations imposed herein shall continue so long as such person occupies the status herein described.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 63.2-602. Eligibility for Temporary Assistance for Needy Families (TANF); penalty.
A. A person shall be eligible for Temporary Assistance for Needy Families if that person:

1. Has not attained the age of eighteen years, or, if regularly attending a secondary school or in the equivalent level of career and technical education, has not attained the age of nineteen years and is reasonably expected to complete his senior year of school prior to attaining age nineteen;

2. Is a resident of Virginia;

3. Is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, parent, grandparent, sibling, step-parent, step-sibling, parent's sibling, sibling's child, or first cousin, nephew, or niece in a residence maintained by such relative or is in placement under conditions specified by the Board;

4. Is in need of public assistance; and

5. If under the age of eighteen years, is in compliance with compulsory school attendance laws (§ 22.1-254 et seq.) as described in § 63.2-606. Prior to imposing a sanction of benefits, the local department shall make reasonable efforts to discuss with the parent or caretaker, by personal contact that may include direct telephone contact, a plan to return the child to school. If such efforts fail, the local department shall mail a written advance notice of proposed action to the parent or caretaker advising that benefits may be reduced if the parent or caretaker fails to contact the local department to develop a plan to return the child to school.

B. An applicant for TANF shall:

1. Furnish, apply for or have an application made on his behalf, and on behalf of all children for whom assistance is being requested, for a social security account number to be used in the administration of the program;

2. Assign the Commonwealth any rights to support from any other person such applicant may have on his own behalf or on behalf of any other family member for whom the applicant is applying for or receiving aid, except for any support that accrued prior to the execution of the assignment;

3. Identify the parents of the child for whom aid is claimed, subject to the "good cause" provisions or exceptions in federal law or regulations. However, this requirement shall not apply if the child is in a foster care placement or if the local department determines, based upon the sworn statement of the
applicant or recipient or of another person with knowledge of the circumstances, that the child was conceived as the result of incest or rape; and

4. Cooperate in (i) locating the parent of the child with respect to whom TANF is claimed, (ii) establishing the paternity of a child born out of wedlock with respect to whom TANF is claimed, (iii) obtaining support payments for such applicant or recipient and for a child with respect to whom TANF is claimed, and (iv) obtaining any other payments or property due such applicant or recipient for such child.

Any applicant or recipient who intentionally misidentifies another person as a parent shall be guilty of a Class 5 felony.

C. Unless an exception to the requirement set forth in subdivision B 3 applies, the Department's Division of Child Support Enforcement shall proceed to determine parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. If paternity is not established after six months of receipt of TANF, the case shall be reviewed to determine the reason that paternity has not been established. If paternity has not been established due to the caretaker relative's noncooperation, the local department may suspend the entire grant or the adult portion of the grant, subject to Board regulations.

D. TANF shall be provided to two-parent families on the same terms and conditions that TANF is provided to single-parent families.

Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.

§ 63.2-1000. Interstate Compact on the Placement of Children; form of compact.

The Governor of Virginia is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I. Purpose and Policy.

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:
(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions.

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for individuals with mental illness, intellectual disability, or epilepsy or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement.

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency
shall comply with each and every requirement set forth in this article and with the applicable laws of the
receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for
placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the
appropriate public authorities in the receiving state written notice of the intention to send, bring, or place
the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency
proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant
to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to
paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency
of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional
information as it may deem necessary under the circumstances to carry out the purpose and policy of this
compact.

(d) The child shall not be sent, brought or caused to be sent or brought into the receiving state until
the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the
effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement.

The sending, bringing, or causing to be sent or brought into any receiving state of a child in
violation of the terms of this compact shall constitute a violation of the laws respecting the placement of
children of both the state in which the sending agency is located or from which it sends or brings the child
and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in
accordance with its laws. In addition to liability for any such punishment or penalty, any such violation
shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction.

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such cases by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children.

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator.

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have the power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations.

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister sibling, adult uncle or aunt sibling of a parent, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal.

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability.
The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones. Similar construction is used by other member states to the compact. See, e.g., 31 Del. Code Ann. § 381 ("The sending or bringing of a child into a receiving state by a parent, stepparent, grandparent, adult sibling. . ."). Moreover, non-substantive differences in the text of an interstate compact do not affect the validity or enforcement of the terms of the compact. As the opening paragraph of this section provides, the compact is effective among jurisdictions that adopt its provisions "in form substantially" as adopted in Virginia. See Delgado v. Commonwealth, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts "constitute an agreement between the Commonwealth of Virginia and other states, territories and the United States, who join in a compact by enacting substantially the same provisions"). Cf. Sassoon v. Stynchombe, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained differences, but were "substantively identical").

§ 63.2-1909. Receipt of public assistance for child as assignment of right in support obligation; Commissioner as attorney for endorsing drafts.

By accepting public assistance for or on behalf of a child or children, the recipient shall be deemed to have made an assignment to the Department of any and all right, title, and interest in any support obligation and arrearages owed to or for such child or children or custodial parent up to the amount of public assistance money paid for or on behalf of such child or children or custodial parent for such term of time as such public assistance moneys are paid; provided, however, that the Department may thereafter
continue to collect any outstanding support obligation or arrearage owed to the Department as a result of such assignment up to the amount of public assistance money paid for or on behalf of such child or children or custodial parent which has not been paid by the noncustodial parent. The recipient shall also be deemed, without the necessity of signing any document, to have appointed the Commissioner as the recipient’s true and lawful attorney-in-fact to act in the recipient's name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or custodial parent as reimbursement for the public assistance moneys previously paid to such recipient.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 64.2-900. Definitions.

As used in this chapter:

"Adult" means an individual who is at least 18 years of age.

"Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

"Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

"Court" means a circuit court of the Commonwealth.

"Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

"Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.

"Guardian" means a person appointed or qualified by a court as a guardian of a person, including a limited guardian, but not a person who is only a guardian ad litem.

"Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

"Legal representative" means a personal representative or conservator.
"Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle or aunt of the parent's sibling, whether of the whole or half blood or by adoption.

"Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

"Personal representative" means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

"State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Transferor" means a person who creates a custodial trust by transfer or declaration.

"Trust company" means a financial institution, corporation, or other legal entity authorized to exercise general trust powers.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 64.2-1614. Judicial relief.

A. In addition to the remedies referenced in § 64.2-1621, the following persons may petition a court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

1. The principal or the agent;

2. A guardian, conservator, personal representative of the estate of a deceased principal, or other fiduciary acting for the principal;

3. A person authorized to make health care decisions for the principal;

4. The principal's spouse, parent, or descendant;

5. An adult who is a brother, sister, niece, or nephew of the principal;

6. A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;
7. The adult protective services unit of the local department of social services for the county or city where the principal resides or is located;

8. The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

9. A person asked to accept the power of attorney.

B. 1. Whether or not supplemental relief is sought in the proceeding, where an agent has violated duties of disclosure imposed by § 64.2-1612, any person to whom such duties are owing may, for the purpose of obtaining information pertinent to the need or propriety of (i) instituting a proceeding under Chapter 20 (§ 64.2-2000 et seq.); (ii) terminating, suspending, or limiting the authority of the agent; or (iii) bringing a proceeding to hold the agent, or a transferee from such agent, liable for breach of duty or to recover particular assets or the value of such assets of a principal or deceased principal, petition a circuit court for discovery from the agent of information and records pertaining to actions taken pursuant to a power of attorney.

2. The petition may be filed in the circuit court of the county or city in which the agent resides or has his principal place of employment, or, if a nonresident, in any court in which a determination of incompetency or incapacity of the principal is proper under Chapter 20 (§ 64.2-2000 et seq.), or, if a conservator or guardian has been appointed for the principal, in the court that made the appointment. The court, after reasonable notice to the agent and to the principal, if no guardian or conservator has been appointed, or to the conservator or guardian, if one has been appointed, may conduct a hearing on the petition. The court, upon the hearing on the petition and upon consideration of the interest of the principal and his estate, may dismiss the petition or may enter such order or orders respecting discovery as it may deem appropriate, including an order that the agent respond to all discovery methods that the petitioner might employ in a civil action or suit subject to the Rules of Supreme Court of Virginia. Upon the failure of the agent to make discovery, the court may make and enforce further orders respecting discovery that would be proper in a civil action subject to such Rules and may award expenses, including reasonable attorney fees, as therein provided. Furthermore, upon completion of discovery, the court, if satisfied that prior to filing the petition the petitioner had requested the information or records that are the subject of
ordered discovery pursuant to § 64.2-1612, may, upon finding that the failure to comply with the request for information was unreasonable, order the agent to pay the petitioner's expenses in obtaining discovery, including reasonable attorney fees.

3. A determination to grant or deny in whole or in part discovery sought hereunder shall not be considered a finding regarding the competence, capacity, or impairment of the principal, nor shall the granting or denial of discovery hereunder preclude the availability of other remedies involving protection of the person or estate of the principal or the rights and duties of the agent.

C. The agent may, after reasonable notice to the principal, petition the circuit court for authority to make gifts of the principal's property to the extent not inconsistent with the express terms of the power of attorney or other writing. The court shall determine the amounts, recipients, and proportions of any gifts of the principal's property after considering all relevant factors including, without limitation, those contained in subsection C of § 64.2-1638.

D. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.

§ 64.2-1616. Agent's resignation; notice.

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

1. To the conservator or guardian, if one has been appointed for the principal, and a coagent or successor agent;

2. If there is no person described in subdivision 1, to an adult who is a spouse, child or other descendant, parent, brother, or sister sibling of the principal;

3. If none of the foregoing persons is reasonably available, another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

4. If none of the foregoing persons is reasonably available, the adult protective services unit of the local department of social services for the county or city where the principal resides or is located.

Drafting note: Amendments replace gender-specific terms with gender-neutral ones.