

Code Sections with Gender-Specific Terms Group I

Section	Catchline
§ 1-303.	Cession of territory northwest of Ohio River.
§ 1-401.	Ceding additional jurisdiction to United States.
§ 2.2-419.	Definitions.
§ 2.2-3101.	Definitions.
§ 2.2-3119.	Additional provisions applicable to school boards and employees of school boards; exceptions.
§ 2.2-4368.	Definitions.
§ 8.01-50.	Action for death by wrongful act; how and when to be brought.
§ 8.01-52.1.	Admissibility of expressions of sympathy.
§ 8.01-53.	Class and beneficiaries; when determined.
§ 8.01-581.20:1.	Admissibility of expressions of sympathy.
§ 8.9A-102.	Definitions and index of definitions.
§ 15.2-1507.	Provision of grievance procedure; training programs.
§ 15.2-2244.	Provisions for subdivision of a lot for conveyance to a family member.
§ 16.1-69.23.	In what cases judge disqualified.
§ 16.1-69.40.	Powers and duties of clerks; civil liability.
§ 16.1-228.	Definitions.
§ 16.1-241.	Jurisdiction; consent for abortion.
§ 18.2-357.	Receiving money from earnings of male or female prostitute; penalties.
§ 18.2-360.	Competency of persons to testify in prosecutions under §§ 18.2-355 through 18.2-361.
§ 18.2-390.	Definitions.
§ 19.2-37.	Magistrates; eligibility for appointment; restrictions on activities.

Section	Catchline
§ 19.2-69.	Civil action for unlawful interception, disclosure or use.
§ 22.1-30.	Certain officers may not act on school board or serve as tie breaker.
§ 24.2-652.	Voter whose name erroneously omitted from pollbook.
§ 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.
§ 30-19.4.	Secretaries and administrative assistants for officers and members of General Assembly; staff personnel for standing committees.
§ 30-101.	Definitions.
§ 32.1-102.3:2.	Certificates of public need; applications to be filed in response to Requests for Applications (RFAs).
§ 32.1-127.1:03.	Health records privacy.
§ 32.1-162.1.	Definitions.
§ 32.1-162.16.	Definitions.
§ 32.1-283.	Investigation of deaths; obtaining consent to removal of organs, etc.; fees.
§ 36-96.1:1.	Definitions.
§ 38.2-3105.	What contracts with respect to life insurance may be made by minors.
§ 38.2-3438.	Definitions.
§ 40.1-2.	Definitions.
§ 40.1-28.9.	Definition of terms.
§ 40.1-122.	Approval of agreement by Commissioner; signing.
§ 46.2-334.01.	Licenses issued to persons less than 19 years old subject to certain restrictions.
§ 46.2-335.	Learner's permits; fees; certification required.

Section	Catchline
§ 46.2-1500.	Definitions.
§ 51.1-500.	Definitions.
§ 53.1-133.10.	(See Editor's note) Governor to execute; form of compact.
§ 53.1-216.	Governor to execute; form of compact.
§ 54.1-1101.	Exemptions; failure to obtain certificate of occupancy; penalties.
§ 54.1-2800.	Definitions.
§ 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.
§ 57-27.3.	Authorization for interment.
§ 58.1-2403.	Exemptions.
§ 59.1-21.10.	Definitions.
§ 59.1-352.1.	Definitions.
§ 59.1-365.	Definitions.
§ 60.2-219.	Services not included in term "employment."
§ 63.2-602.	Eligibility for Temporary Assistance for Needy Families (TANF); penalty.
§ 63.2-1000.	Interstate Compact on the Placement of Children; form of compact.
§ 63.2-1909.	Receipt of public assistance for child as assignment of right in support obligation; Commissioner as attorney for endorsing drafts.
§ 64.2-900.	Definitions.
§ 64.2-1614.	Judicial relief.
§ 64.2-1616.	Agent's resignation; notice.

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

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

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

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

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

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

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

17 **§ 1-401. Ceding additional jurisdiction to United States.**

18 A. Whenever the head or other authorized officer of any department or independent establishment
19 or agency of the United States shall deem it desirable that additional jurisdiction or powers be ceded over
20 any lands in the Commonwealth acquired or proposed to be acquired by the United States under his
21 immediate jurisdiction, custody or control, and whenever the Governor and Attorney General of the
22 Commonwealth shall agree to the same, the Governor and Attorney General shall execute and
23 acknowledge a deed in the name of and under the lesser seal of the Commonwealth ceding such additional
24 jurisdiction. The deed shall accurately and specifically describe the area and location of the land over
25 which the additional jurisdiction and powers are ceded and shall set out specifically what additional
26 jurisdiction and powers are ceded, and may set out any reservations in the Commonwealth of jurisdiction
27 which may be deemed proper in addition to those referred to in subsection D.

28 B. No such deed shall become effective or operative until the jurisdiction therein provided for is
29 accepted on behalf of the United States as required by 40 U.S.C. § 255. The head or other authorized
30 officer of a department or independent establishment or agency of the United States shall indicate such
31 acceptance by executing and acknowledging such deed and admitting it to record in the office of the clerk
32 of the court in which deeds conveying the lands affected would properly be recorded.

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

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

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

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

49 **§ 2.2-419. Definitions.**

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

51 "Anything of value" means:

52 1. A pecuniary item, including money, or a bank bill or note;

53 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment
54 of money;

- 55 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of
56 indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
- 57 4. A stock, bond, note, or other investment interest in an entity;
- 58 5. A receipt given for the payment of money or other property;
- 59 6. A right in action;
- 60 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
- 61 8. A loan or forgiveness of indebtedness;
- 62 9. A work of art, antique, or collectible;
- 63 10. An automobile or other means of personal transportation;
- 64 11. Real property or an interest in real property, including title to realty, a fee simple or partial
65 interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial
66 interest in realty;
- 67 12. An honorarium or compensation for services;
- 68 13. A rebate or discount in the price of anything of value unless the rebate or discount is made in
69 the ordinary course of business to a member of the public without regard to that person's status as an
70 executive or legislative official, or the sale or trade of something for reasonable compensation that would
71 ordinarily not be available to a member of the public;
- 72 14. A promise or offer of employment; or
- 73 15. Any other thing of value that is pecuniary or compensatory in value to a person.
- 74 "Anything of value" does not mean a campaign contribution properly received and reported
75 pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.
- 76 "Compensation" means:
- 77 1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift,
78 pledge, or transfer of money or anything of value; or
- 79 2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of
80 indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value,
81 for services rendered or to be rendered.

82 "Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed
83 the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

84 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in §
85 30-355.

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

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

93 "Executive official" means:

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

103 "Expenditure" means:

- 104 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
105 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of
106 value for any purpose;

107 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a
108 person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
109 persons;

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

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

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

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

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

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

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

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

130 "Gift" does not mean:

131 1. Printed informational or promotional material;

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

- 134 3. A devise or inheritance;
- 135 4. A gift of a value of less than \$20;
- 136 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission,
137 or pass is used;
- 138 6. Any food or beverages provided to an individual at an event at which the individual is
139 performing official duties related to his public service;
- 140 7. Any food and beverages received at or registration or attendance fees waived for any event at
141 which the individual is a featured speaker, presenter, or lecturer;
- 142 8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall
143 memento, or similar item that is given in recognition of public, civic, charitable, or professional service;
- 144 9. Any gift to an individual's spouse, child, ~~uncle, aunt, niece, nephew, parent's sibling, parent's~~
145 ~~sibling's spouse, sibling's child, sibling's spouse's child,~~ or first cousin; a person to whom the donee is
146 engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, ~~brother, sister~~ sibling,
147 step-parent, step-grandparent, step-grandchild, ~~step-brother,~~ or ~~step-sister~~ step-sibling; or the donee's
148 ~~brother's or sister's~~ sibling's spouse or the donee's ~~son-in-law or daughter-in-law~~ child-in-law;
- 149 10. Travel provided to facilitate attendance by a legislator at a regular or special session of the
150 General Assembly, a meeting of a legislative committee or commission, or a national conference where
151 attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on
152 Rules or its Chairman;
- 153 11. Travel related to an official meeting of, or any meal provided for attendance at such meeting
154 by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or
155 any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated
156 with such entity, to which such person has been appointed or elected or is a member by virtue of his office
157 or employment; or
- 158 12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages
159 that can be conveniently consumed by a person while standing or walking are offered.

160 "Immediate family" means (i) the spouse and (ii) any other person who resides in the same
161 household as the executive or legislative official and who is a dependent of the official.

162 "Legislative action" means:

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

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

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

171 "Legislative official" means:

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

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

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

177 "Lobbying" means:

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

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

181 "Lobbying" does not mean:

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

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

186 3. The solicitation of an association by its members to influence legislative or executive action; or

187 4. Communications between an association and its members and communications between a
188 principal and its lobbyists.

189 "Lobbyist" means:

190 1. An individual who is employed and receives payments, or who contracts for economic
191 consideration, including reimbursement for reasonable travel and living expenses, for the purpose of
192 lobbying;

193 2. An individual who represents an organization, association, or other group for the purpose of
194 lobbying; or

195 3. A local government employee who lobbies.

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

201 "Local government" means:

202 1. Any county, city, town, or other local or regional political subdivision;

203 2. Any school division;

204 3. Any organization or entity that exercises governmental powers that is established pursuant to an
205 interstate compact; or

206 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
207 this definition.

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

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

212 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
213 construction on behalf of an executive agency, including description of requirements, selection and

214 solicitation of sources, preparation and award of contract, and all phases of contract administration where
215 the stated or expected value of the contract is \$5 million or more.

216 "Secretary" means the Secretary of the Commonwealth.

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

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

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

225 **§ 2.2-3101. Definitions.**

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

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

230 "Affiliated business entity relationship" means a relationship, other than a parent-subsiary
231 relationship, that exists when (i) one business entity has a controlling ownership interest in the other
232 business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii)
233 there is shared management or control between the business entities. Factors that may be considered in
234 determining the existence of an affiliated business entity relationship include that the same person or
235 substantially the same person owns or manages the two entities, there are common or commingled funds
236 or assets, the business entities share the use of the same offices or employees, or otherwise share activities,
237 resources or personnel on a regular basis, or there is otherwise a close working relationship between the
238 entities.

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

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

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

253 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in §
254 30-355.

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

257 "Financial institution" means any bank, trust company, savings institution, industrial loan
258 association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-
259 501, or investment company or advisor registered under the federal Investment Advisors Act or
260 Investment Company Act of 1940.

261 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other
262 item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings
263 and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after
264 the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission
265 or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit,

266 or need-based scholarship or any other financial aid awarded by a public or private school, institution of
267 higher education, or other educational program pursuant to such school, institution, or program's financial
268 aid standards and procedures applicable to the general public; (iv) a campaign contribution properly
269 received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the
270 private profession or occupation or volunteer service of an officer or employee or of a member of his
271 immediate family; (vi) food or beverages consumed while attending an event at which the filer is
272 performing official duties related to his public service; (vii) food and beverages received at or registration
273 or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii)
274 unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar
275 item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or
276 inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.);
277 (xi) travel paid for or provided by the government of the United States, any of its territories, or any state
278 or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a
279 regular or special session of the General Assembly, a meeting of a legislative committee or commission,
280 or a national conference where attendance is approved by the House Committee on Rules or its Chairman
281 or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any
282 meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any
283 board, commission, authority, or other entity, or any charitable organization established pursuant to §
284 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been
285 appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less
286 than \$20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and
287 beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi)
288 gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's
289 spouse, child, ~~uncle, aunt, niece, nephew,~~ parent's sibling, parent's sibling's spouse, sibling's child, sibling's
290 spouse's child, or first cousin; a person to whom the donee is engaged to be married; the donee's or his
291 spouse's parent, grandparent, grandchild, ~~brother, sister~~ sibling, step-parent, step-grandparent, step-
292 grandchild, ~~step-brother,~~ or ~~step-sister~~ step-sibling; or the donee's ~~brother's or sister's~~ sibling's spouse or

293 the donee's ~~son-in-law or daughter-in-law~~ child-in-law. For the purpose of this definition, "personal
294 friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered
295 pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in §
296 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization,
297 or business who is a party to or is seeking to become a party to a contract with the local agency of which
298 he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory
299 agency, a person, organization, or business who is a party to or is seeking to become a party to a contract
300 with the Commonwealth. For purposes of this definition, "person, organization, or business" includes
301 individuals who are officers, directors, or owners of or who have a controlling ownership interest in such
302 organization or business.

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

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

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

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

315 "Personal interest" means a financial benefit or liability accruing to an officer or employee or to a
316 member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the
317 ownership interest exceeds three percent of the total equity of the business; (ii) annual income that
318 exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property
319 or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any

320 combination thereof, paid or provided by a business or governmental agency that exceeds, or may
321 reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the
322 interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other
323 compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or
324 assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or
325 (vi) an option for ownership of a business or real or personal property if the ownership interest will consist
326 of clause (i) or (iv).

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

330 "Personal interest in a transaction" means a personal interest of an officer or employee in any
331 matter considered by his agency. Such personal interest exists when an officer or employee or a member
332 of his immediate family has a personal interest in property or a business or governmental agency, or
333 represents or provides services to any individual or business and such property, business or represented
334 or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably
335 foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the
336 transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist
337 where (a) an elected member of a local governing body serves without remuneration as a member of the
338 board of trustees of a not-for-profit entity and such elected member or member of his immediate family
339 has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member
340 of a local governing body is appointed by such local governing body to serve on a governmental agency,
341 or an officer, employee, or elected member of a separate local governmental agency formed by a local
342 governing body is appointed to serve on a governmental agency, and the personal interest in the transaction
343 of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits
344 provided by the local governing body or the separate governmental agency to the officer, employee,
345 elected member, or member of his immediate family.

346 "State and local government officers and employees" shall not include members of the General
347 Assembly.

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

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

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

354 **§ 2.2-3119. Additional provisions applicable to school boards and employees of school**
355 **boards; exceptions.**

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

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

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

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

371 2. Has been employed pursuant to a written contract with a school board or employed as a
372 substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

373 3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at
374 any time as a teacher or other employee of any Virginia school board prior to the taking of office of any
375 member of such school board or division superintendent of schools.

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

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

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

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

395 **§ 2.2-4368. Definitions.**

396 As used in this article:

397 "Immediate family" means a spouse, children, parents, ~~brothers and sisters~~ siblings, and any other
398 person living in the same household as the employee.

399 "Official responsibility" means administrative or operating authority, whether intermediate or
400 final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting
401 therefrom.

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

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

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

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

410 **§ 8.01-50. Action for death by wrongful act; how and when to be brought.**

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

421 B. Whenever a fetal death, as defined in § 32.1-249, is caused by the wrongful act, neglect, or
422 default of any person, ship, vessel, or corporation, the natural mother of the fetus may bring an action
423 pursuant to this section against such tortfeasor. Nothing in this section shall be construed to create a cause
424 of action for a fetal death against the natural mother of the fetus.

425 C. Every such action under subsection A shall be brought by and in the name of the personal
426 representative of such deceased person. Actions for fetal death under subsection B shall be brought by and
427 in the name of the natural mother; provided, however, if the natural mother dies, or is or becomes a person
428 under a disability as defined in § 8.01-2, such action may be initiated or maintained by the administrator
429 of the natural mother's estate, her guardian, or her personal representative qualified to bring such action.
430 In an action for fetal death under subsection B brought under Chapter 21.1 (§ 8.01-581.1 et seq.) where
431 the wrongful act that resulted in a fetal death also resulted in the death of another fetus of the natural
432 mother or in the death or injury of the natural mother, recovery for all damages sustained as a result of
433 such wrongful act shall not exceed the limitations on the total amount recoverable for a single patient for
434 any injury under § 8.01-581.15. The person bringing an action under subsection B shall have the power
435 to compromise a claim pursuant to § 8.01-55 and any damages recovered shall be distributed pursuant to
436 this article. Every such action under this section shall be brought within the time limits specified in § 8.01-
437 244.

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

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

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

445 **§ 8.01-52.1. Admissibility of expressions of sympathy.**

446 In any wrongful death action brought pursuant to § 8.01-50 against a health care provider, or in
447 any arbitration or medical malpractice review panel proceeding related to such wrongful death action, the
448 portion of statements, writings, affirmations, benevolent conduct, or benevolent gestures expressing
449 sympathy, commiseration, condolence, compassion, or a general sense of benevolence, together with
450 apologies that are made by a health care provider or an agent of a health care provider to a relative of the
451 patient, or a representative of the patient about the death of the patient as a result of the unanticipated

452 outcome of health care, shall be inadmissible as evidence of an admission of liability or as evidence of an
453 admission against interest. A statement of fault that is part of or in addition to any of the above shall not
454 be made inadmissible by this section.

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

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

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

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

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

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

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

467 **§ 8.01-53. Class and beneficiaries; when determined.**

468 A. The damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54
469 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased or
470 (ii) if there be none such, then to the parents, ~~brothers~~ and ~~sisters~~ siblings of the deceased, and to any other
471 relative who is primarily dependent on the decedent for support or services and is also a member of the
472 same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents,
473 but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents
474 or (iv) if there are survivors under clause (i) or clause (iii), the award shall be distributed to those
475 beneficiaries and to any other relative who is primarily dependent on the decedent for support or services
476 and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i),
477 (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.2-200.
478 Provided, however, no parent whose parental rights and responsibilities have been terminated by a court

479 of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency
480 shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person
481 related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

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

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

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

490 **§ 8.01-581.20:1. Admissibility of expressions of sympathy.**

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

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

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

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

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

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

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

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

511 **§ 8.9A-102. Definitions and index of definitions.**

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

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

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

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

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

530 (A) authenticated by a secured party;

- 531 (B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier
532 or 35 days later than the date of the record; and
- 533 (C) identifying the components of the obligations in reasonable detail.
- 534 (5) "Agricultural lien" means an interest, other than a security interest, in farm products:
- 535 (A) which secures payment or performance of an obligation for:
- 536 (i) goods or services furnished in connection with a debtor's farming operation; or
- 537 (ii) rent on real property leased by a debtor in connection with its farming operation;
- 538 (B) which is created by statute in favor of a person that:
- 539 (i) in the ordinary course of its business furnished goods or services to a debtor in connection with
540 a debtor's farming operation; or
- 541 (ii) leased real property to a debtor in connection with the debtor's farming operation; and
- 542 (C) whose effectiveness does not depend on the person's possession of the personal property.
- 543 (6) "As-extracted collateral" means:
- 544 (A) oil, gas, or other minerals that are subject to a security interest that:
- 545 (i) is created by a debtor having an interest in the minerals before extraction; and
- 546 (ii) attaches to the minerals as extracted; or
- 547 (B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in
548 which the debtor had an interest before extraction.
- 549 (7) "Authenticate" means:
- 550 (A) to sign; or
- 551 (B) with present intent to adopt or accept a record, to attach to or logically associate with the record
552 an electronic sound, symbol, or process.
- 553 (8) "Bank" means an organization that is engaged in the business of banking. The term includes
554 savings banks, savings and loan associations, credit unions, and trust companies.
- 555 (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.
- 556 (10) "Certificate of title" means a certificate of title with respect to which a statute provides for the
557 security interest in question to be indicated on the certificate as a condition or result of the security

558 interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes
559 another record maintained as an alternative to a certificate of title by the governmental unit that issues
560 certificates of title if a statute permits the security interest in question to be indicated on the record as a
561 condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect
562 to the collateral.

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

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

- 575 (A) proceeds to which a security interest attaches;
- 576 (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
- 577 (C) goods that are the subject of a consignment.

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

- 579 (A) the claimant is an organization; or
- 580 (B) the claimant is an individual and the claim:
 - 581 (i) arose in the course of the claimant's business or profession; and
 - 582 (ii) does not include damages arising out of personal injury to or the death of an individual.

583 (14) "Commodity account" means an account maintained by a commodity intermediary in which
584 a commodity contract is carried for a commodity customer.

585 (15) "Commodity contract" means a commodity futures contract, an option on a commodity futures
586 contract, a commodity option, or another contract if the contract or option is:

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

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

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

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

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

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

597 (18) "Communicate" means:

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

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

600 or

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

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

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

606 (A) the merchant:

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

608 (ii) is not an auctioneer; and

609 (iii) is not generally known by its creditors to be substantially engaged in selling the goods of
610 others;

611 (B) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time
612 of delivery;

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

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

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

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

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

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

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

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

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

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

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

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

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

632 (28) "Debtor" means:

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

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

636 (C) a consignee.

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

639 (30) "Document" means a document of title or a receipt of the type described in subdivision (2) of
640 § 8.7-201.

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

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

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

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

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

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

650 (ii) aquatic goods produced in aquacultural operations;

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

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

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

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

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

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

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

661 (39) "Financing statement" means a record or records composed of an initial financing statement
662 and any filed record relating to the initial financing statement.

663 (40) "Fixture filing" means the filing of a financing statement covering goods that are or are to
664 become fixtures and satisfying subsections (a) and (b) of § 8.9A-502. The term includes the filing of a
665 financing statement covering goods of a transmitting utility which are or are to become fixtures.

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

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

672 (43) "Good faith" means honesty in fact and the observance of reasonable commercial standards
673 of fair dealing.

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

686 (45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality,
687 or other unit of the government of the United States, a State, or a foreign country. The term includes an
688 organization having a separate corporate existence if the organization is eligible to issue debt on which
689 interest is exempt from income taxation under the laws of the United States.

690 (46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance
691 which is a right to payment of a monetary obligation for health-care goods or services provided.

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

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

699 (A) are leased by a person as lessor;

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

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

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

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

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

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

711 (52) "Lien creditor" means:

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

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

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

715 (D) a receiver in equity from the time of appointment.

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

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

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

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

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

732 (56) "New debtor" means a person that becomes bound as debtor under subsection (d) of § 8.9A-
733 203 by a security agreement previously entered into by another person.

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

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

738 (59) "Obligor" means a person that, with respect to an obligation secured by a security interest in
739 or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has
740 provided property other than the collateral to secure payment or other performance of the obligation, or
741 (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The
742 term does not include issuers or nominated persons under a letter of credit.

743 (60) "Original debtor," except as used in subsection (c) of § 8.9A-310, means a person that, as
744 debtor, entered into a security agreement to which a new debtor has become bound under subsection (d)
745 of § 8.9A-203.

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

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

749 (A) the spouse of the individual;

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

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

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

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

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

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

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

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

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

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

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

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

767 (C) rights arising out of collateral;

768 (D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or
769 interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

770 (E) to the extent of the value of collateral and to the extent payable to the debtor or the secured
771 party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in,
772 or damage to, the collateral.

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

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

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

780 (A) debt securities are issued;

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

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

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

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

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

793 (C) a record consisting of legislation enacted by the legislature of a state or the Congress of the
794 United States which forms or organizes an organization, any record amending the legislation, and any
795 record filed with or issued by the state or the United States which amends or restates the name of the
796 organization.

797 (69) "Pursuant to commitment," with respect to an advance made or other value given by a secured
798 party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or
799 other event not within the secured party's control has relieved or may relieve the secured party from its
800 obligation.

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

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

809 (72) "Secondary obligor" means an obligor to the extent that:

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

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

813 (73) "Secured party" means:

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

816 (B) a person that holds an agricultural lien;

817 (C) a consignor;

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

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

822 (F) a person that holds a security interest arising under § 8.2-401, 8.2-505, 8.2-711 (3), 8.2A-508
823 (5), 8.4-210, or 8.5A-118.

824 (74) "Security agreement" means an agreement that creates or provides for a security interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

848 (C) transmitting goods by pipeline or sewer; or

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

850 (b) Definitions in other titles. The following definitions in other titles apply to this title:

- 851 "Applicant" § 8.5A-102.
- 852 "Beneficiary" § 8.5A-102.
- 853 "Broker" § 8.8A-102.
- 854 "Certificated security" § 8.8A-102.
- 855 "Check" § 8.3A-104.
- 856 "Clearing corporation" § 8.8A-102.
- 857 "Contract for sale" § 8.2-106.
- 858 "Control" § 8.7-106.
- 859 "Customer" § 8.4-104.
- 860 "Entitlement holder" § 8.8A-102.
- 861 "Financial asset" § 8.8A-102.
- 862 "Holder in due course" § 8.3A-302.
- 863 "Issuer" (with respect to a letter of credit or letter-of-credit right) § 8.5A-102.
- 864 "Issuer" (with respect to a security) § 8.8A-201.
- 865 "Issuer" (with respect to documents of title) § 8.7-102.
- 866 "Lease" § 8.2A-103.
- 867 "Lease agreement" § 8.2A-103.
- 868 "Lease contract" § 8.2A-103.
- 869 "Leasehold interest" § 8.2A-103.
- 870 "Lessee" § 8.2A-103.
- 871 "Lessee in ordinary course of business" § 8.2A-103.
- 872 "Lessor" § 8.2A-103.
- 873 "Lessor's residual interest" § 8.2A-103.
- 874 "Letter of credit" § 8.5A-102.
- 875 "Merchant" § 8.2-104.
- 876 "Negotiable instrument" § 8.3A-104.
- 877 "Nominated person" § 8.5A-102.

878 "Note" § 8.3A-104.

879 "Proceeds of a letter of credit" § 8.5A-114.

880 "Prove" § 8.3A-103.

881 "Sale" § 8.2-106.

882 "Securities account" § 8.8A-501.

883 "Securities intermediary" § 8.8A-102.

884 "Security" § 8.8A-102.

885 "Security certificate" § 8.8A-102.

886 "Security entitlement" § 8.8A-102.

887 "Uncertificated security" § 8.8A-102.

888 (c) Title 8.1A definitions and principles. Title 8.1A contains general definitions and principles of
889 construction and interpretation applicable throughout this title.

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

891 **§ 15.2-1507. Provision of grievance procedure; training programs.**

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

899 Each grievance procedure, and each amendment thereto, in order to comply with this section, shall
900 be certified in writing to be in compliance by the city, town or county attorney, and the chief administrative
901 officer of the locality, and such certification filed with the clerk of the circuit court having jurisdiction in
902 the locality in which the procedure is to apply. Local government grievance procedures in effect as of July
903 1, 1991, shall remain in full force and effect for 90 days thereafter, unless certified and filed as provided
904 above within a shorter time period.

905 Each grievance procedure shall include the following components and features:

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

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

932 shall be upheld upon a showing by the local government that: (i) there was a valid business reason for the
933 action and (ii) the employee was notified of the reason in writing prior to the effective date of the action.

934 3. Coverage of personnel.

935 a. Unless otherwise provided by law, all nonprobationary local government permanent full-time
936 and part-time employees are eligible to file grievances with the following exceptions:

937 (1) Appointees of elected groups or individuals;

938 (2) Officials and employees who by charter or other law serve at the will or pleasure of an
939 appointing authority;

940 (3) Deputies and executive assistants to the chief administrative officer of a locality;

941 (4) Agency heads or chief executive officers of government operations;

942 (5) Employees whose terms of employment are limited by law;

943 (6) Temporary, limited term and seasonal employees;

944 (7) Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 et seq.) of Title 9.1 whose
945 grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those
946 provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any
947 other existing procedure in the resolution of his grievance.

948 b. Notwithstanding the exceptions set forth in subdivision 3 a above, local governments, at their
949 sole discretion, may voluntarily include employees in any of the excepted categories within the coverage
950 of their grievance procedures.

951 c. The chief administrative officer of each local government, or his designee, shall determine the
952 officers and employees excluded from the grievance procedure, and shall be responsible for maintaining
953 an up-to-date list of the affected positions.

954 4. Grievance procedure availability and coverage for employees of community services boards,
955 redevelopment and housing authorities, and regional housing authorities. Employees of community
956 services boards, redevelopment and housing authorities created pursuant to § 36-4, and regional housing
957 authorities created pursuant to § 36-40 shall be included in (i) a local governing body's grievance
958 procedure or personnel system, if agreed to by the department, board, or authority and the locality or (ii)

959 a grievance procedure established and administered by the department, board or authority which is
960 consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations
961 promulgated pursuant thereto. If a department, board or authority fails to establish a grievance procedure
962 pursuant to clause (i) or (ii), it shall be deemed to have adopted a grievance procedure which is consistent
963 with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 and any regulations adopted pursuant
964 thereto for so long as it remains in noncompliance.

965 5. General requirements for procedures.

966 a. Each grievance procedure shall include not more than four steps for airing complaints at
967 successively higher levels of local government management, and a final step providing for a panel hearing
968 or a hearing before an administrative hearing officer upon the agreement of both parties.

969 b. Grievance procedures shall prescribe reasonable and specific time limitations for the grievant
970 to submit an initial complaint and to appeal each decision through the steps of the grievance procedure.

971 c. Nothing contained in this section shall prohibit a local government from granting its employees
972 rights greater than those contained herein, provided such grant does not exceed or violate the general law
973 or public policy of the Commonwealth.

974 6. Time periods.

975 a. It is intended that speedy attention to employee grievances be promoted, consistent with the
976 ability of the parties to prepare for a fair consideration of the issues of concern.

977 b. The time for submitting an initial complaint shall not be less than 20 calendar days after the
978 event giving rise to the grievance, but local governments may, at their option, allow a longer time period.

979 c. Limits for steps after initial presentation of grievance shall be the same or greater for the grievant
980 than the time which is allowed for local government response in each comparable situation.

981 d. Time frames may be extended by mutual agreement of the local government and the grievant.

982 7. Compliance.

983 a. After the initial filing of a written grievance, failure of either party to comply with all substantial
984 procedural requirements of the grievance procedure, including the panel or administrative hearing, without
985 just cause shall result in a decision in favor of the other party on any grievable issue, provided the party

986 not in compliance fails to correct the noncompliance within five workdays of receipt of written notification
987 by the other party of the compliance violation. Such written notification by the grievant shall be made to
988 the chief administrative officer, or his designee.

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

994 8. Management steps.

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

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

1000 c. With the exception of the final management step, the only persons who may normally be present
1001 in the management step meetings are the grievant, the appropriate local government official at the level at
1002 which the grievance is being heard, and appropriate witnesses for each side. Witnesses shall be present
1003 only while actually providing testimony. At the final management step, the grievant, at his option, may
1004 have present a representative of his choice. If the grievant is represented by legal counsel, local
1005 government likewise has the option of being represented by counsel.

1006 9. Qualification for panel or administrative hearing.

1007 a. Decisions regarding grievability and access to the procedure shall be made by the chief
1008 administrative officer of the local government, or his designee, at any time prior to the panel hearing, at
1009 the request of the local government or grievant, within 10 calendar days of the request. No city, town, or
1010 county attorney, or attorney for the Commonwealth, shall be authorized to decide the question of
1011 grievability. A copy of the ruling shall be sent to the grievant. Decisions of the chief administrative officer
1012 of the local government, or his designee, may be appealed to the circuit court having jurisdiction in the

1013 locality in which the grievant is employed for a hearing on the issue of whether the grievance qualifies for
1014 a panel hearing. Proceedings for review of the decision of the chief administrative officer or his designee
1015 shall be instituted by the grievant by filing a notice of appeal with the chief administrative officer within
1016 10 calendar days from the date of receipt of the decision and giving a copy thereof to all other parties.
1017 Within 10 calendar days thereafter, the chief administrative officer or his designee shall transmit to the
1018 clerk of the court to which the appeal is taken: a copy of the decision of the chief administrative officer, a
1019 copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the court shall also be
1020 furnished to the grievant. The failure of the chief administrative officer or his designee to transmit the
1021 record shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ
1022 of certiorari requiring the chief administrative officer to transmit the record on or before a certain date.

1023 b. Within 30 days of receipt of such records by the clerk, the court, sitting without a jury, shall
1024 hear the appeal on the record transmitted by the chief administrative officer or his designee and such
1025 additional evidence as may be necessary to resolve any controversy as to the correctness of the record.
1026 The court, in its discretion, may receive such other evidence as the ends of justice require. The court may
1027 affirm the decision of the chief administrative officer or his designee, or may reverse or modify the
1028 decision. The decision of the court shall be rendered no later than the fifteenth day from the date of the
1029 conclusion of the hearing. The decision of the court is final and is not appealable.

1030 10. Final hearings.

1031 a. Qualifying grievances shall advance to either a panel hearing or a hearing before an
1032 administrative hearing officer, as set forth in the locality's grievance procedure, as described below:

1033 (1) If the grievance procedure adopted by the local governing body provides that the final step
1034 shall be an impartial panel hearing, the panel may, with the exception of those local governments covered
1035 by subdivision a (2) of this subsection, consist of one member appointed by the grievant, one member
1036 appointed by the agency head and a third member selected by the first two. In the event that agreement
1037 cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction
1038 wherein the dispute arose shall select the third panel member. The panel shall not be composed of any
1039 persons having direct involvement with the grievance being heard by the panel, or with the complaint or

1040 dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons
1041 residing in the same household as the grievant and the following relatives of a participant in the grievance
1042 process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child,
1043 descendants of a child, sibling, ~~niece, nephew~~ sibling's child, spouse's sibling's child, and first cousin. No
1044 attorney having direct involvement with the subject matter of the grievance, nor a partner, associate,
1045 employee or co-employee of the attorney shall serve as a panel member.

1046 (2) If the grievance procedure adopted by the local governing body provides for the final step to
1047 be an impartial panel hearing, local governments may retain the panel composition method previously
1048 approved by the Department of Human Resource Management and in effect as of the enactment of this
1049 statute. Modifications to the panel composition method shall be permitted with regard to the size of the
1050 panel and the terms of office for panel members, so long as the basic integrity and independence of panels
1051 are maintained. As used in this section, the term "panel" shall include all bodies designated and authorized
1052 to make final and binding decisions.

1053 (3) When a local government elects to use an administrative hearing officer rather than a three-
1054 person panel for the final step in the grievance procedure, the administrative hearing officer shall be
1055 appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made
1056 from the list of administrative hearing officers maintained by the Executive Secretary pursuant to § 2.2-
1057 4024 and shall be made from the appropriate geographical region on a rotating basis. In the alternative,
1058 the local government may request the appointment of an administrative hearing officer from the
1059 Department of Human Resource Management. If a local government elects to use an administrative
1060 hearing officer, it shall bear the expense of such officer's services.

1061 (4) When the local government uses a panel in the final step of the procedure, there shall be a
1062 chairperson of the panel and, when panels are composed of three persons (one each selected by the
1063 respective parties and the third from an impartial source), the third member shall be the chairperson.

1064 (5) Both the grievant and the respondent may call upon appropriate witnesses and be represented
1065 by legal counsel or other representatives at the hearing. Such representatives may examine, cross-examine,

1066 question and present evidence on behalf of the grievant or respondent before the panel or hearing officer
1067 without being in violation of the provisions of § 54.1-3904.

1068 (6) The decision of the panel or hearing officer shall be final and binding and shall be consistent
1069 with provisions of law and written policy.

1070 (7) The question of whether the relief granted by a panel or hearing officer is consistent with
1071 written policy shall be determined by the chief administrative officer of the local government, or his
1072 designee, unless such person has a direct personal involvement with the event or events giving rise to the
1073 grievance, in which case the decision shall be made by the attorney for the Commonwealth of the
1074 jurisdiction in which the grievance is pending.

1075 b. Rules for panel and administrative hearings.

1076 Unless otherwise provided by law, local governments shall adopt rules for the conduct of panel or
1077 administrative hearings as a part of their grievance procedures, or shall adopt separate rules for such
1078 hearings. Rules which are promulgated shall include, but need not be limited to the following provisions:

1079 (1) That neither the panels nor the hearing officer have authority to formulate policies or
1080 procedures or to alter existing policies or procedures;

1081 (2) That panels and the hearing officer have the discretion to determine the propriety of attendance
1082 at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the
1083 hearing shall be private;

1084 (3) That the local government provide the panel or hearing officer with copies of the grievance
1085 record prior to the hearing, and provide the grievant with a list of the documents furnished to the panel or
1086 hearing officer, and the grievant and his attorney, at least 10 days prior to the scheduled hearing, shall be
1087 allowed access to and copies of all relevant files intended to be used in the grievance proceeding;

1088 (4) That panels and hearing officers have the authority to determine the admissibility of evidence
1089 without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal
1090 opportunity is afforded to all parties for the presentation of their evidence;

1091 (5) That all evidence be presented in the presence of the panel or hearing officer and the parties,
1092 except by mutual consent of the parties;

1093 (6) That documents, exhibits and lists of witnesses be exchanged between the parties or hearing
1094 officer in advance of the hearing;

1095 (7) That the majority decision of the panel or the decision of the hearing officer, acting within the
1096 scope of its or his authority, be final, subject to existing policies, procedures and law;

1097 (8) That the panel or hearing officer's decision be provided within a specified time to all parties;
1098 and

1099 (9) Such other provisions as may facilitate fair and expeditious hearings, with the understanding
1100 that the hearings are not intended to be conducted like proceedings in courts, and that rules of evidence
1101 do not necessarily apply.

1102 11. Implementation of final hearing decisions.

1103 Either party may petition the circuit court having jurisdiction in the locality in which the grievant
1104 is employed for an order requiring implementation of the hearing decision.

1105 B. Notwithstanding the contrary provisions of this section, a final hearing decision rendered under
1106 the provisions of this section which would result in the reinstatement of any employee of a sheriff's office,
1107 who has been terminated for cause may be reviewed by the circuit court for the locality upon the petition
1108 of the locality. The review of the circuit court shall be limited to the question of whether the decision of
1109 the panel or hearing officer was consistent with provisions of law and written policy.

1110 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1111 **§ 15.2-2244. Provisions for subdivision of a lot for conveyance to a family member.**

1112 A. In any county a subdivision ordinance shall provide for reasonable provisions permitting a
1113 single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the
1114 property owner, including the family member's spouse, subject only to any express requirement contained
1115 in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less
1116 than five acres have reasonable right-of-way of not less than 10 feet or more than 20 feet providing ingress
1117 and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed
1118 per family member, and shall not be for the purpose of circumventing this section. For the purpose of this
1119 subsection, a member of the immediate family is defined as any person who is a natural or legally defined

1120 offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner. In addition, any such
1121 locality may include ~~aunts, uncles, nieces and nephews~~ parent's siblings, parent's sibling's spouses,
1122 sibling's children, and sibling's spouse's children in its definition of immediate family.

1123 B. Notwithstanding subsection A, in a county having the urban county executive form of
1124 government, a subdivision ordinance shall provide for reasonable provisions permitting a single division
1125 of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner,
1126 subject only to any express requirement contained in the Code of Virginia and to any requirement imposed
1127 by the local governing body that all lots of less than five acres have frontage of not less than 10 feet or
1128 more than 20 feet on a dedicated recorded public street or thoroughfare. Only one such division shall be
1129 allowed per family member, and the division shall not be for the purpose of circumventing a local
1130 subdivision ordinance. For the purpose of this subsection, a member of the immediate family is defined
1131 as any person who is a natural or legally defined offspring or parent of the owner.

1132 C. Notwithstanding subsections A and B, a subdivision ordinance may include reasonable
1133 provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the
1134 immediate family of the property owner in (i) any county or city which has had population growth of 10
1135 percent or more from the next-to-latest to latest decennial census year, based on population reported by
1136 the United States Bureau of the Census; (ii) any city or county adjoining such city or county; (iii) any
1137 towns located within such county; and (iv) any county contiguous with at least three such counties, and
1138 any town located in that county. Such divisions shall be subject to all requirements of the Code of Virginia
1139 and to any requirements imposed by the local governing body.

1140 **Drafting note: Amendment replace gender-specific terms with gender-neutral ones.**

1141 **§ 16.1-69.23. In what cases judge disqualified.**

1142 If the judge or substitute judge of any district court:

1143 (1) Be a party to an action;

1144 (2) Be interested in the result of any action, otherwise than as resident or taxpayer of the city or
1145 county;

1146 (3) Be related to any party to the action as spouse, grandparent, parent, ~~father-in-law, mother-in-~~
1147 ~~law~~ parent-in-law, child, grandchild, ~~son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-~~
1148 ~~law, nephew, niece, uncle, aunt, child-in-law, sibling, sibling-in-law, parent's sibling, parent's sibling's~~
1149 ~~spouse, sibling's child, sibling's spouse's child~~, first cousin, guardian or ward;

1150 (4) Be a material witness for either party to the action;

1151 (5) Be counsel for any party to the action;

1152 he shall not take cognizance thereof.

1153 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

1154 **§ 16.1-69.40. Powers and duties of clerks; civil liability.**

1155 The clerk and deputy clerks shall be conservators of the peace within the territory for which the
1156 court has jurisdiction, and may, within such judicial district, issue warrants, detention orders, and other
1157 processes, original, mesne and final, both civil and criminal, commit to jail or other detention facility, or
1158 admit to bail upon recognizance, persons charged with crimes or before the court on civil petition, subject
1159 to the limitations set forth by law, and issue subpoenas for witnesses, writs of fieri facias and writs of
1160 possession, attachments and garnishments and abstracts of judgments. A record made in the performance
1161 of the clerk's official duties may be authenticated as a true copy by the clerk or by a deputy clerk without
1162 additional authentication by the judge to whom the clerk reports, notwithstanding the provisions of
1163 subsection B of § 8.01-391.

1164 No clerk or deputy clerk shall issue any warrant or process based on complaint of his spouse, child,
1165 grandchild, parent, grandparent, parent-in-law, child-in-law, ~~brother, sister, brother-in-law, sister-in-law,~~
1166 ~~nephew, niece, uncle, aunt, sibling, sibling-in-law, parent's sibling, parent's sibling's spouse, sibling's~~
1167 ~~child, sibling's spouse's child~~, first cousin, guardian or ward. They may take affidavits and administer
1168 oaths and affirmations, take and certify depositions in the same manner as a notary public, perform such
1169 other notarial acts as allowed under § 47.1-12, take acknowledgments to deeds or other writings for
1170 purposes of recordation, and issue all other legal processes which may be issued by the judge of such court
1171 and exercise such other powers and perform such other duties as are conferred or imposed upon them by

1172 law. The clerk may also issue to interested persons informational brochures authorized by a judge of such
1173 court explaining the legal rights of such persons.

1174 No clerk or deputy clerk shall be civilly liable for providing information or assistance that is within
1175 the scope of his duties.

1176 The clerk shall develop, implement and administer procedures necessary for the efficient operation
1177 of the clerk's office, keep the records and accounts of the court, supervise nonjudicial personnel and
1178 discharge such other duties as may be prescribed by the judge.

1179 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1180 **§ 16.1-228. Definitions.**

1181 When used in this chapter, unless the context otherwise requires:

1182 "Abused or neglected child" means any child:

1183 1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or
1184 inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than
1185 accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental
1186 functions, including, but not limited to, a child who is with his parent or other person responsible for his
1187 care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance,
1188 or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his
1189 care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony
1190 violation of § 18.2-248;

1191 2. Whose parents or other person responsible for his care neglects or refuses to provide care
1192 necessary for his health; however, no child who in good faith is under treatment solely by spiritual means
1193 through prayer in accordance with the tenets and practices of a recognized church or religious
1194 denomination shall for that reason alone be considered to be an abused or neglected child;

1195 3. Whose parents or other person responsible for his care abandons such child;

1196 4. Whose parents or other person responsible for his care commits or allows to be committed any
1197 sexual act upon a child in violation of the law;

1198 5. Who is without parental care or guardianship caused by the unreasonable absence or the mental
1199 or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco
1200 parentis;

1201 6. Whose parents or other person responsible for his care creates a substantial risk of physical or
1202 mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as
1203 defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the
1204 parent or other person responsible for his care knows has been convicted of an offense against a minor for
1205 which registration is required as a violent sexual offender pursuant to § 9.1-902; or

1206 7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined
1207 in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims
1208 of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

1209 If a civil proceeding under this chapter is based solely on the parent having left the child at a
1210 hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely
1211 delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency
1212 medical services agency that employs emergency medical services personnel, within 14 days of the child's
1213 birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the
1214 court may find such a child is a neglected child upon the ground of abandonment.

1215 "Adoptive home" means the place of residence of any natural person in which a child resides as a
1216 member of the household and in which he has been placed for the purposes of adoption or in which he has
1217 been legally adopted by another member of the household.

1218 "Adult" means a person 18 years of age or older.

1219 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part
1220 of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent
1221 act which would be a felony if committed by an adult.

1222 "Boot camp" means a short term secure or nonsecure juvenile residential facility with highly
1223 structured components including, but not limited to, military style drill and ceremony, physical labor,
1224 education and rigid discipline, and no less than six months of intensive aftercare.

1225 "Child," "juvenile," or "minor" means a person less than 18 years of age.

1226 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or
1227 results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of
1228 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
1229 physical safety of another person; however, no child who in good faith is under treatment solely by
1230 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
1231 religious denomination shall for that reason alone be considered to be a child in need of services, nor shall
1232 any child who habitually remains away from or habitually deserts or abandons his family as a result of
1233 what the court or the local child protective services unit determines to be incidents of physical, emotional
1234 or sexual abuse in the home be considered a child in need of services for that reason alone.

1235 However, to find that a child falls within these provisions, (i) the conduct complained of must
1236 present a clear and substantial danger to the child's life or health or to the life or health of another person,
1237 (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received,
1238 and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed
1239 by the child or his family.

1240 "Child in need of supervision" means:

1241 1. A child who, while subject to compulsory school attendance, is habitually and without
1242 justification absent from school, and (i) the child has been offered an adequate opportunity to receive the
1243 benefit of any and all educational services and programs that are required to be provided by law and which
1244 meet the child's particular educational needs, (ii) the school system from which the child is absent or other
1245 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
1246 and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-
1247 258; or

1248 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian
1249 or placement authority, remains away from or deserts or abandons his family or lawful custodian on more
1250 than one occasion or escapes or remains away without proper authority from a residential care facility in
1251 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the

1252 child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
1253 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
1254 rehabilitation or services needed by the child or his family.

1255 "Child welfare agency" means a child-placing agency, child-caring institution or independent
1256 foster home as defined in § 63.2-100.

1257 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the
1258 juvenile and domestic relations district court of each county or city.

1259 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
1260 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-
1261 308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an act other
1262 than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed
1263 by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a breath
1264 test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town.

1265 "Delinquent child" means a child who has committed a delinquent act or an adult who has
1266 committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court
1267 has been terminated under the provisions of § 16.1-269.6.

1268 "Department" means the Department of Juvenile Justice and "Director" means the administrative
1269 head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
1270 duties imposed upon him under this law.

1271 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
1272 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
1273 a person against such person's family or household member. Such act includes, but is not limited to, any
1274 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter
1275 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable
1276 apprehension of death, sexual assault, or bodily injury.

1277 "Family or household member" means (i) the person's spouse, whether or not he ~~or she~~ resides in
1278 the same home with the person, (ii) the person's former spouse, whether or not he ~~or she~~ resides in the

1279 same home with the person, (iii) the person's parents, stepparents, children, stepchildren, ~~brothers, sisters,~~
1280 ~~half-brothers, half-sisters, siblings, half-siblings,~~ grandparents and grandchildren, regardless of whether
1281 such persons reside in the same home with the person, (iv) the person's ~~mother-in-law, father-in-law, sons-~~
1282 ~~in-law, daughters-in-law, brothers-in-law~~ parents-in-law, children-in-law, and ~~sisters-in-law~~ siblings-in-
1283 law who reside in the same home with the person, (v) any individual who has a child in common with the
1284 person, whether or not the person and that individual have been married or have resided together at any
1285 time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the
1286 person, and any children of either of them then residing in the same home with the person.

1287 "Foster care services" means the provision of a full range of casework, treatment and community
1288 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in
1289 need of services as defined in this section and his family when the child (i) has been identified as needing
1290 services to prevent or eliminate the need for foster care placement, (ii) has been placed through an
1291 agreement between the local board of social services or a public agency designated by the community
1292 policy and management team and the parents or guardians where legal custody remains with the parents
1293 or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare
1294 agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-
1295 293.

1296 "Independent living arrangement" means placement of a child at least 16 years of age who is in
1297 the custody of a local board or licensed child-placing agency and has been placed by the local board or
1298 licensed child-placing agency in a living arrangement in which he does not have daily substitute parental
1299 supervision.

1300 "Independent living services" means services and activities provided to a child in foster care 14
1301 years of age or older and who has been committed or entrusted to a local board of social services, child
1302 welfare agency, or private child-placing agency. "Independent living services" may also mean services
1303 and activities provided to a person who was in foster care on his 18th birthday and has not yet reached the
1304 age of 21 years. Such services shall include counseling, education, housing, employment, and money

1305 management skills development and access to essential documents and other appropriate services to help
1306 children or persons prepare for self-sufficiency.

1307 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of
1308 this chapter.

1309 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional
1310 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell
1311 for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a
1312 child to a juvenile facility.

1313 "The judge" means the judge or the substitute judge of the juvenile and domestic relations district
1314 court of each county or city.

1315 "This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced
1316 in this chapter.

1317 "Legal custody" means (i) a legal status created by court order which vests in a custodian the right
1318 to have physical custody of the child, to determine and redetermine where and with whom he shall live,
1319 the right and duty to protect, train and discipline him and to provide him with food, shelter, education and
1320 ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status
1321 created by court order of joint custody as defined in § 20-107.2.

1322 "Permanent foster care placement" means the place of residence in which a child resides and in
1323 which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and
1324 agreement between the placing agency and the place of permanent foster care that the child shall remain
1325 in the placement until he reaches the age of majority unless modified by court order or unless removed
1326 pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of
1327 any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

1328 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with
1329 the parent after the transfer of legal custody or guardianship of the person, including but not limited to the
1330 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
1331 for support.

1332 "Secure facility" or "detention home" means a local, regional or state public or private locked
1333 residential facility that has construction fixtures designed to prevent escape and to restrict the movement
1334 and activities of children held in lawful custody.

1335 "Shelter care" means the temporary care of children in physically unrestricting facilities.

1336 "State Board" means the State Board of Juvenile Justice.

1337 "Status offender" means a child who commits an act prohibited by law which would not be criminal
1338 if committed by an adult.

1339 "Status offense" means an act prohibited by law which would not be an offense if committed by
1340 an adult.

1341 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of §
1342 16.1-269.1 when committed by a juvenile 14 years of age or older.

1343 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones and**
1344 **make technical changes consistent with Va. Code § 1-216.**

1345 **§ 16.1-241. Jurisdiction; consent for abortion.**

1346 The judges of the juvenile and domestic relations district court elected or appointed under this law
1347 shall be conservators of the peace within the corporate limits of the cities and the boundaries of the
1348 counties for which they are respectively chosen and within one mile beyond the limits of such cities and
1349 counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have,
1350 within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile
1351 beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the
1352 adjoining city or county, over all cases, matters and proceedings involving:

1353 A. The custody, visitation, support, control or disposition of a child:

1354 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status
1355 offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

1356 2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical
1357 or mental incapacity of his parents is without parental care and guardianship;

1358 2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated
1359 as having abused or neglected another child in the care of the parent or custodian;

1360 3. Whose custody, visitation or support is a subject of controversy or requires determination. In
1361 such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction,
1362 except as provided in § 16.1-244;

1363 4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-
1364 1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

1365 5. Where the termination of residual parental rights and responsibilities is sought. In such cases
1366 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in
1367 § 16.1-244;

1368 6. Who is charged with a traffic infraction as defined in § 46.2-100; or

1369 7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.

1370 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated
1371 in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court
1372 shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that
1373 the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the
1374 commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is
1375 alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for
1376 all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in
1377 subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a
1378 preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act
1379 alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged
1380 offense, and any matters related thereto. A determination by the juvenile court following a preliminary
1381 hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the
1382 juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer
1383 hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the
1384 case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

1385 In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after
1386 a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a
1387 lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be
1388 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

1389 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,
1390 control or disposition of a child shall not be limited to the consideration of petitions filed by a ~~mother,~~
1391 ~~father~~ parent or legal guardian but shall include petitions filed at any time by any party with a legitimate
1392 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be
1393 limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family
1394 members. A party with a legitimate interest shall not include any person (i) whose parental rights have
1395 been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives
1396 from or through a person whose parental rights have been terminated by court order, either voluntarily or
1397 involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives
1398 and family members, if the child subsequently has been legally adopted, except where a final order of
1399 adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection
1400 A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United
1401 States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a
1402 result of such violation. The authority of the juvenile court to consider a petition involving the custody of
1403 a child shall not be proscribed or limited where the child has previously been awarded to the custody of a
1404 local board of social services.

1405 B. The admission of minors for inpatient treatment in a mental health facility in accordance with
1406 the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental
1407 illness or judicial certification of eligibility for admission to a training center for persons with intellectual
1408 disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of
1409 the involuntary admission and certification of adults shall be concurrent with the general district court.

1410 C. Except as provided in subsections D and H, judicial consent to such activities as may require
1411 parental consent may be given for a child who has been separated from his parents, guardian, legal

1412 custodian or other person standing in loco parentis and is in the custody of the court when such consent is
1413 required by law.

1414 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married
1415 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person
1416 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person
1417 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,
1418 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such
1419 consent or provide such treatment when requested by the judge to do so.

1420 E. Any person charged with deserting, abandoning or failing to provide support for any person in
1421 violation of law.

1422 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1423 1. Who has been abused or neglected;

1424 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-
1425 1817 or is otherwise before the court pursuant to subdivision A 4; or

1426 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
1427 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the
1428 conduct of the child complained of in the petition.

1429 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or
1430 other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other
1431 services that are required by law to be provided for that child or such child's parent, guardian, legal
1432 custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and
1433 not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

1434 H. Judicial consent to apply for a work permit for a child when such child is separated from his
1435 parents, legal guardian or other person standing in loco parentis.

1436 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or
1437 neglect of children or with any violation of law that causes or tends to cause a child to come within the
1438 purview of this law, or with any other offense against the person of a child. In prosecution for felonies

1439 over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is
1440 probable cause.

1441 J. All offenses in which one family or household member is charged with an offense in which
1442 another family or household member is the victim and all offenses under § 18.2-49.1.

1443 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to
1444 determining whether or not there is probable cause. Any objection based on jurisdiction under this
1445 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before
1446 the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be
1447 conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging
1448 directly or collaterally the jurisdiction of the court in which the case is tried.

1449 K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily
1450 relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental
1451 rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive
1452 parents.

1453 L. Any person who seeks spousal support after having separated from his spouse. A decision under
1454 this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A
1455 circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

1456 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1,
1457 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection
1458 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
1459 juvenile.

1460 N. Any person who escapes or remains away without proper authority from a residential care
1461 facility in which he had been placed by the court or as a result of his commitment to the Virginia
1462 Department of Juvenile Justice.

1463 O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

1464 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§
1465 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

1466 juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile
1467 and domestic relations district court.

1468 Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title
1469 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

1470 R. [Repealed.]

1471 S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

1472 T. Petitions to enforce any request for information or subpoena that is not complied with or to
1473 review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect
1474 pursuant to § 63.2-1526.

1475 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to §
1476 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10
1477 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible
1478 disposition.

1479 V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent
1480 to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the
1481 laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

1482 W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an
1483 abortion if a minor elects not to seek consent of an authorized person.

1484 After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without
1485 the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough
1486 informed to make her abortion decision, in consultation with her physician, independent of the wishes of
1487 any authorized person, or (ii) the minor is not mature enough or well enough informed to make such
1488 decision, but the desired abortion would be in her best interest.

1489 If the judge authorizes an abortion based on the best interests of the minor, such order shall
1490 expressly state that such authorization is subject to the physician or his agent giving notice of intent to
1491 perform the abortion; however, no such notice shall be required if the judge finds that such notice would
1492 not be in the best interest of the minor. In determining whether notice is in the best interest of the minor,

1493 the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the
1494 best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly
1495 and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either
1496 abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person
1497 standing in loco parentis.

1498 The minor may participate in the court proceedings on her own behalf, and the court may appoint
1499 a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall,
1500 upon her request, appoint counsel for her.

1501 Notwithstanding any other provision of law, the provisions of this subsection shall govern
1502 proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records
1503 of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending
1504 matters so that the court may reach a decision promptly and without delay in order to serve the best
1505 interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as
1506 practicable but in no event later than four days after the petition is filed.

1507 An expedited confidential appeal to the circuit court shall be available to any minor for whom the
1508 court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be
1509 heard and decided no later than five days after the appeal is filed. The time periods required by this
1510 subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent
1511 or without notice shall not be subject to appeal.

1512 No filing fees shall be required of the minor at trial or upon appeal.

1513 If either the original court or the circuit court fails to act within the time periods required by this
1514 subsection, the court before which the proceeding is pending shall immediately authorize a physician to
1515 perform the abortion without consent of or notice to an authorized person.

1516 Nothing contained in this subsection shall be construed to authorize a physician to perform an
1517 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult
1518 woman.

1519 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent
1520 has been obtained or the minor delivers to the physician a court order entered pursuant to this section and
1521 the physician or his agent provides such notice as such order may require. However, neither consent nor
1522 judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and
1523 the attending physician has reason to suspect that the minor may be an abused or neglected child as defined
1524 in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a
1525 medical emergency, in which case the attending physician shall certify the facts justifying the exception
1526 in the minor's medical record.

1527 For purposes of this subsection:

1528 "Authorization" means the minor has delivered to the physician a notarized, written statement
1529 signed by an authorized person that the authorized person knows of the minor's intent to have an abortion
1530 and consents to such abortion being performed on the minor.

1531 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor
1532 or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with
1533 whom the minor regularly and customarily resides and who has care and control of the minor. Any person
1534 who knows he is not an authorized person and who knowingly and willfully signs an authorization
1535 statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

1536 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has
1537 received authorization from an authorized person, or (ii) at least one authorized person is present with the
1538 minor seeking the abortion and provides written authorization to the physician, which shall be witnessed
1539 by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the
1540 minor's medical record and maintained as a part thereof.

1541 "Medical emergency" means any condition which, on the basis of the physician's good faith
1542 clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the
1543 immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of
1544 substantial and irreversible impairment of a major bodily function.

1545 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual
1546 notice of his intention to perform such abortion to an authorized person, either in person or by telephone,
1547 at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a
1548 reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified
1549 mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours
1550 prior to the performance of the abortion.

1551 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical
1552 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

1553 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid
1554 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of
1555 the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or
1556 guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of
1557 emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

1558 X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor
1559 children.

1560 The ages specified in this law refer to the age of the child at the time of the acts complained of in
1561 the petition.

1562 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service
1563 of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of §
1564 17.1-272, or subsection B, D, M, or R.

1565 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation
1566 of subsection W shall be guilty of a Class 3 misdemeanor.

1567 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1568 **§ 18.2-357. Receiving money from earnings of prostitute; penalties.**

1569 Any person who shall knowingly receive any money or other valuable thing from the earnings of
1570 any ~~male or female~~ person engaged in prostitution, except for a consideration deemed good and valuable

1571 in law, shall be guilty of pandering, punishable as a Class 4 felony. Any person who violates this section
1572 by receiving money or other valuable thing from a person under the age of 18 is guilty of a Class 3 felony.

1573 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1574 **§ 18.2-360. Competency of persons to testify in prosecutions under §§ 18.2-355 through 18.2-**
1575 **361.**

1576 Any ~~male or female~~ person referred to in §§ 18.2-355 through 18.2-361 shall be a competent
1577 witness in any prosecution under such sections to testify to any and all matters, including conversations
1578 by or with the accused with third persons in his ~~or her~~ presence, notwithstanding he ~~or she~~ may have
1579 married the accused either before or after the violation of any of the provisions of this section; but such
1580 witness shall not be compelled to testify after such marriage.

1581 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones and**
1582 **make technical changes consistent with Va. Code § 1-216.**

1583 **§ 18.2-390. Definitions.**

1584 As used in this article:

1585 (1) "Juvenile" means a person less than 18 years of age.

1586 (2) "Nudity" means a state of undress so as to expose the human ~~male or female~~ genitals, pubic
1587 area or buttocks with less than a full opaque covering, or the showing of the female breast with less than
1588 a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or
1589 uncovered male genitals in a discernibly turgid state.

1590 (3) "Sexual conduct" means actual or explicitly simulated acts of masturbation, homosexuality,
1591 sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a
1592 person's clothed or unclothed genitals, pubic area, buttocks or, if such be female, breast.

1593 (4) "Sexual excitement" means the condition of human ~~male or female~~ genitals when in a state of
1594 sexual stimulation or arousal.

1595 (5) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon
1596 a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being
1597 fettered, bound or otherwise physically restrained on the part of one so clothed.

1598 (6) "Harmful to juveniles" means that quality of any description or representation, in whatever
1599 form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly
1600 appeals to the prurient, shameful or morbid interest of juveniles, (b) is patently offensive to prevailing
1601 standards in the adult community as a whole with respect to what is suitable material for juveniles, and
1602 (c) is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.

1603 (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for
1604 belief which warrants further inspection or inquiry of both (a) the character and content of any material
1605 described herein which is reasonably susceptible of examination by the defendant, and (b) the age of the
1606 juvenile, provided however, that an honest mistake shall constitute an excuse from liability hereunder if
1607 the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

1608 (8) "Video or computer game" means an object or device that stores recorded data or instructions,
1609 receives data or instructions generated by a person who uses it, and, by processing the data or instructions,
1610 creates an interactive game capable of being played, viewed, or experienced on or through a computer,
1611 television gaming system, console, or other technology.

1612 **Drafting note: Amendments eliminate superfluous gender-specific terms.**

1613 **§ 19.2-37. Magistrates; eligibility for appointment; restrictions on activities.**

1614 A. Any person who is a United States citizen and resident of the Commonwealth may be appointed
1615 to the office of magistrate under this title subject to the limitations of Chapter 28 (§ 2.2-2800 et seq.) of
1616 Title 2.2 and of this section.

1617 B. Every person appointed as a magistrate on and after July 1, 2008, shall be required to have a
1618 bachelor's degree from an accredited institution of higher education. A person initially appointed as a
1619 magistrate prior to July 1, 2008, who continues in office without a break in service is not required to have
1620 a bachelor's degree from an accredited institution of higher education.

1621 C. A person shall not be eligible for appointment as a magistrate under the provisions of this title:
1622 (a) if such person is a law-enforcement officer; (b) if such person or his spouse is a clerk, deputy or
1623 assistant clerk, or employee of any such clerk of a district or circuit court, provided that the Committee on
1624 District Courts may authorize a magistrate to assist in the district court clerk's office on a part-time basis;

1625 (c) if the parent, child, spouse, or sibling of such person is a district or circuit court judge in the magisterial
1626 region where he will serve; or (d) if such person is the chief executive officer, or a member of the board
1627 of supervisors, town or city council, or other governing body for any political subdivision of the
1628 Commonwealth.

1629 D. No magistrate shall issue any warrant or process in complaint of his spouse, child, grandchild,
1630 parent, grandparent, parent-in-law, child-in-law, ~~brother, sister, brother-in-law or sister-in-law, nephew,~~
1631 ~~niece, uncle, aunt,~~ sibling, sibling-in-law, parent's sibling, sibling's child, spouse's sibling's child, first
1632 cousin, guardian or ward.

1633 E. A magistrate may not engage in any other activity for financial gain during the hours that he is
1634 serving on duty as a magistrate. A magistrate may not be employed outside his duty hours without the
1635 prior written approval of the Executive Secretary.

1636 F. No person appointed as a magistrate on or after July 1, 2008, may engage in the practice of law.

1637 G. A magistrate who is designated as a marriage celebrant under § 20-25 may not accept a fee, a
1638 gratuity, or any other thing of value for exercise of authority as a marriage celebrant.

1639 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

1640 **§ 19.2-69. Civil action for unlawful interception, disclosure or use.**

1641 Any person whose wire, electronic or oral communication is intercepted, disclosed or used in
1642 violation of this chapter shall (i) have a civil cause of action against any person who intercepts, discloses
1643 or uses, or procures any other person to intercept, disclose or use such communications, and (ii) be entitled
1644 to recover from any such person:

1645 1. Actual damages but not less than liquidated damages computed at the rate of \$400 a day for
1646 each day of violation or \$4,000, whichever is higher, provided that liquidated damages shall be computed
1647 at the rate of \$800 a day for each day of violation or \$8,000, whichever is higher, if the wire, electronic,
1648 or oral communication intercepted, disclosed, or used is between (i) ~~a husband and wife~~ persons married
1649 to each other; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a
1650 licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed

1651 marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or
1652 advice;

1653 2. Punitive damages; and

1654 3. A reasonable attorney's fee and other litigation costs reasonably incurred.

1655 A good faith reliance on a court order or legislative authorization shall constitute a complete
1656 defense to any civil or criminal action brought under this chapter or under any other law.

1657 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1658 **§ 22.1-30. Certain officers may not act on school board or serve as tie breaker.**

1659 A. No state, county, city or town officer, no deputy of any such officer, no member of the
1660 governing body of a county, city or town, no employee of a school board, and no ~~father, mother, brother,~~
1661 ~~sister parent, sibling~~, spouse, ~~son, daughter, son-in-law, daughter-in-law, sister-in-law~~ child, child-in-law,
1662 or ~~brother-in-law~~ sibling-in-law of a member of the county governing body may, during his term of office,
1663 be appointed as a member of the school board for such county, city or town or as tie breaker for such
1664 school board except:

1665 1. Local directors of social services;

1666 2. Commissioners in chancery;

1667 3. Commissioners of accounts;

1668 4. Registrars of vital records and health statistics;

1669 5. Notaries public;

1670 6. Clerks and employees of the federal government in the District of Columbia;

1671 7. Medical examiners;

1672 8. Officers and employees of the District of Columbia;

1673 9. In Northumberland County, oyster inspectors;

1674 10. In Lunenburg County, members of the county library board and members of the local board of
1675 social services;

1676 11. Auxiliary deputy sheriffs and auxiliary police officers receiving less than five dollars in annual
1677 compensation;

1678 12. Members of the town councils serving towns within Craig, Giles and Wise Counties; and

1679 13. Public defenders.

1680 B. Nothing in this section shall be construed to prohibit the election of deputies of constitutional
1681 officers to school board membership, consistent with federal law and regulation.

1682 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

1683 **§ 24.2-652. Voter whose name erroneously omitted from pollbook.**

1684 When a person offers to vote and his name does not appear on the pollbook, the officers of election
1685 shall permit him to vote only if all of the following conditions are met:

1686 1. An officer of election is informed by the general registrar that the voter is registered to vote, that
1687 his registration has not been cancelled, and that his name is erroneously omitted from the pollbook.

1688 2. The voter signs a statement, subject to felony penalties for false statements pursuant to § 24.2-
1689 1016, that he is a qualified and registered voter of that precinct, a resident of that precinct, and his
1690 registration is not subject to cancellation pursuant to §§ 24.2-430, 24.2-431, and 24.2-432; and he
1691 provides, subject to such penalties, all the information required to identify himself including the last four
1692 digits of his social security number, if any, full name including ~~the maiden or~~ any other prior legal name,
1693 birthdate, and complete address.

1694 3. The officer of election enters the identifying information for the voter on the pollbook.

1695 When the voter has signed the statement and is permitted to vote, the officers of election shall
1696 mark his name on the pollbook with the next consecutive number from the voter count form, or shall enter
1697 that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that he has
1698 signed the required statement in accordance with the instructions of the State Board.

1699 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1700 **§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted;
1701 handling of provisional ballots; ballots cast after normal close of polls due to court order extending
1702 polling hours.**

1703 A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available
1704 or cannot state that the person is registered to vote, then such person shall be allowed to vote by printed

1705 ballot in the manner provided in this section. This procedure shall also apply when required by § 24.2-643
1706 or 24.2-651.1.

1707 Such person shall be given a printed ballot and provide, subject to the penalties for making false
1708 statements pursuant to § 24.2-1016, on a green envelope supplied by the Department of Elections, the
1709 identifying information required on the envelope, including the last four digits of his social security
1710 number, if any, full name including ~~the maiden or~~ any other prior legal name, date of birth, complete
1711 address, and signature. Such person shall be asked to present one of the forms of identification specified
1712 in subsection B of § 24.2-643. The officers of election shall note on the green envelope whether or not the
1713 voter has presented one of the specified forms of identification. The officers of election shall enter the
1714 appropriate information for the person in the precinct provisional ballots log in accordance with the
1715 instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor
1716 otherwise mark his name as having voted. The officers of election shall provide an application for
1717 registration to the person offering to vote in the manner provided in this section.

1718 The voter shall then, in the presence of an officer of election, but in a secret manner, mark the
1719 printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the
1720 ballot shall then promptly be placed in the ballot container by an officer of election.

1721 An officer of election, by a written notice given to the voter, shall (i) inform him that a
1722 determination of his right to vote shall be made by the electoral board, (ii) advise the voter of the beginning
1723 time and place for the board's meeting and of the voter's right to be present at that meeting, and (iii) inform
1724 a voter voting provisionally when required by § 24.2-643 that he may submit a copy of one of the forms
1725 of identification specified in subsection B of § 24.2-643 to the electoral board by facsimile, electronic
1726 mail, in-person submission, or timely United States Postal Service or commercial mail delivery, to be
1727 received by the electoral board no later than noon on the third day after the election. At the meeting, the
1728 voter may request an extension of the determination of the provisional vote in order to provide information
1729 to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall
1730 have the authority to grant such extensions which it deems reasonable to determine the status of a
1731 provisional vote.

1732 B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall
1733 be sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes
1734 contained therein, and signed by the officers of election who counted them. All provisional votes
1735 envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes
1736 to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral
1737 board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

1738 The electoral board shall meet on the day following the election and determine whether each
1739 person having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct
1740 in which he offered the provisional vote. If the board is unable to determine the validity of all the
1741 provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot
1742 an extension as provided in subsection A, the meeting shall stand adjourned, not to exceed seven calendar
1743 days from the date of the election, until the board has determined the validity of all provisional ballots
1744 offered in the election.

1745 One authorized representative of each political party or independent candidate in a general or
1746 special election or one authorized representative of each candidate in a primary election shall be permitted
1747 to remain in the room in which the determination is being made as an observer so long as he does not
1748 participate in the proceedings and does not impede the orderly conduct of the determination. Each
1749 authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each
1750 representative, who is not himself a candidate or party chairman, shall present to the electoral board a
1751 written statement designating him to be a representative of the party or candidate and signed by the county
1752 or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate.
1753 If the county or city chairman is unavailable to sign such a written designation, such a designation may be
1754 made by the state or district chairman of the political party. However, no written designation made by a
1755 state or district chairman shall take precedence over a written designation made by the county or city
1756 chairman. Such statement, bearing the chairman's or candidate's original signature, may be photocopied
1757 and such photocopy shall be as valid as if the copy had been signed.

1758 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
1759 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be
1760 permitted only for the authorized representatives provided for in this subsection, for the persons whose
1761 provisional votes are being considered and their representative or legal counsel, and for appropriate staff
1762 and legal counsel for the electoral board.

1763 If the electoral board determines that such person was not entitled to vote as a qualified voter in
1764 the precinct in which he offered the provisional vote, is unable to determine his right to vote, or has not
1765 been provided one of the forms of identification specified in subsection B of § 24.2-643, the envelope
1766 containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be
1767 counted if (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (b) the Department
1768 of Elections or the voter presents proof that indicates the voter submitted an application for registration to
1769 the Department of Motor Vehicles or other state-designated voter registration agency prior to the close of
1770 registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for
1771 registration based upon the application for registration submitted by the person pursuant to subsection A.
1772 The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly
1773 registered or whose provisional vote was not counted.

1774 If the electoral board determines that such person was entitled to vote, the name of the voter shall
1775 be entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
1776 the ballot placed in a ballot container without any inspection further than that provided for in § 24.2-646.

1777 On completion of its determination, the electoral board shall proceed to count such ballots and
1778 certify the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671.
1779 No adjustment shall be made to the statement of results for the precinct in which the person offered to
1780 vote. However, any voter who cast a provisional ballot and is determined by the electoral board to have
1781 been entitled to vote shall have his name included on the list of persons who voted that is submitted to the
1782 Department of Elections pursuant to § 24.2-406.

1783 The certification of the results of the count together with all ballots and envelopes, whether open
1784 or unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit
1785 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

1786 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any
1787 ballots marked after the normal polling hours by persons who were not already in line at the time the polls
1788 would have closed, notwithstanding the court order, shall be treated as provisional ballots under this
1789 section. The officers of election shall mark the green envelope for each such provisional ballot to indicate
1790 that it was cast after normal polling hours due to the court order, and when preparing the materials to
1791 deliver to the registrar or electoral board, shall separate these provisional ballots from any provisional
1792 ballots used for any other reason. The electoral board shall treat these provisional ballots as provided in
1793 subsection B; however, the counted and uncounted provisional ballots marked after the normal polling
1794 hours shall be kept separate from all other ballots and recorded in a separate provisional ballots pollbook.
1795 The Department of Elections shall provide instructions to the electoral boards for the handling and
1796 counting of such provisional ballots pursuant to this section.

1797 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1798 **§ 30-19.4. Secretaries and administrative assistants for officers and members of General**
1799 **Assembly; staff personnel for standing committees.**

1800 The General Assembly shall provide for the employment of secretaries and administrative
1801 assistants for the Speaker of the House of Delegates, the President pro tempore of the Senate, the Majority
1802 and Minority Floor Leaders of the House of Delegates and Senate and members of the General Assembly
1803 to aid in the performance of duties incidental to the legislative process. Allowances for such secretaries
1804 and assistants shall be provided as set forth in the general appropriations act. Such allowances shall not
1805 be utilized for political purposes and shall be further conditioned upon such limitations and restrictions as
1806 shall be set forth in the general appropriations act. The session day per diem for each administrative
1807 assistant shall equal the amount authorized for members of the General Assembly as set forth in the general
1808 appropriations act.

1809 The General Assembly shall provide for the employment of such clerks, counsel and other staff
1810 personnel for each of the standing committees as are approved by the Rules Committee of the appropriate
1811 house.

1812 No member of the immediate family of a member of the General Assembly shall be eligible to
1813 receive any sum authorized under the provisions of this section. For the purpose of this section the spouse,
1814 parent, child, ~~brother~~ or ~~sister~~ sibling of the member shall be considered a member of the immediate
1815 family.

1816 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

1817 **§ 30-101. Definitions.**

1818 As used in this chapter, unless the context requires a different meaning:

1819 "Advisory agency" means any board, commission, committee or post which does not exercise any
1820 sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the
1821 purpose of making studies or recommendations, or advising or consulting with a governmental agency.

1822 "Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise,
1823 association, trust or foundation, or any other individual or entity carrying on a business or profession,
1824 whether or not for profit.

1825 "Candidate" means a person who seeks or campaigns for election to the General Assembly in a
1826 general, primary, or special election and who is qualified to have his name placed on the ballot for the
1827 office. The candidate shall become subject to the provisions of this section upon the filing of a statement
1828 of qualification pursuant to § 24.2-501. The State Board of Elections shall notify each such candidate of
1829 the provisions of this chapter.

1830 "Contract" means any agreement to which a governmental agency is a party, or any agreement on
1831 behalf of a governmental agency that involves the payment of money appropriated by the General
1832 Assembly or a political subdivision, whether or not such agreement is executed in the name of the
1833 Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the
1834 contract of which it is a part is with the legislator's own governmental agency.

1835 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in §
1836 30-355.

1837 "Financial institution" means any bank, trust company, savings institution, industrial loan
1838 association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-
1839 501, or investment company or advisor registered under the federal Investment Advisors Act or
1840 Investment Company Act of 1940.

1841 "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other
1842 item having monetary value. It includes services as well as gifts of transportation, lodgings and meals,
1843 whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense
1844 has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass
1845 unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or
1846 need-based scholarship or any other financial aid awarded by a public or private school, institution of
1847 higher education, or other educational program pursuant to such school, institution, or program's financial
1848 aid standards and procedures applicable to the general public; (iv) a campaign contribution properly
1849 received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the
1850 private profession or occupation or volunteer service of a legislator or of a member of his immediate
1851 family; (vi) food or beverages consumed while attending an event at which the filer is performing official
1852 duties related to his public service; (vii) food and beverages received at or registration or attendance fees
1853 waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards
1854 of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given
1855 in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel
1856 disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or
1857 provided by the government of the United States, any of its territories, or any state or any political
1858 subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special
1859 session of the General Assembly, a meeting of a legislative committee or commission, or a national
1860 conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate
1861 Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided

1862 for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board,
1863 commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3)
1864 of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or
1865 elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20;
1866 (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that
1867 can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from
1868 relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child,
1869 ~~uncle, aunt, niece, nephew, parent's sibling, parent's sibling's spouse, sibling's child, sibling's spouse's~~
1870 ~~child,~~ or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's
1871 parent, grandparent, grandchild, ~~brother, sister~~ sibling, step-parent, step-grandparent, step-grandchild,
1872 ~~step-brother,~~ or ~~step-sister~~ step-sibling; or the donee's ~~brother's or sister's~~ sibling's spouse or the donee's
1873 ~~son-in-law or daughter-in-law~~ child-in-law. For the purpose of this definition, "personal friend" does not
1874 include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article
1875 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.

1876 "Governmental agency" means each component part of the legislative, executive or judicial
1877 branches of state and local government, including each office, department, authority, post, commission,
1878 committee, and each institution or board created by law to exercise some regulatory or sovereign power
1879 or duty as distinguished from purely advisory powers or duties.

1880 "Immediate family" means (i) a spouse and (ii) any other person who resides in the same household
1881 as the legislator and who is a dependent of the legislator.

1882 "Legislator" means a member of the General Assembly.

1883 "Personal interest" means a financial benefit or liability accruing to a legislator or to a member of
1884 his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership
1885 interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may
1886 reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
1887 (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination
1888 thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be

1889 anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds
1890 \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe
1891 benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a
1892 business if the liability exceeds three percent of the asset value of the business; or (vi) an option for
1893 ownership of a business or real or personal property if the ownership interest will consist of clause (i) or
1894 (iv).

1895 "Personal interest in a contract" means a personal interest that a legislator has in a contract with a
1896 governmental agency, whether due to his being a party to the contract or due to a personal interest in a
1897 business that is a party to the contract.

1898 "Personal interest in a transaction" means a personal interest of a legislator in any matter
1899 considered by the General Assembly. Such personal interest exists when a legislator or a member of his
1900 immediate family has a personal interest in property or a business, or represents or provides services to
1901 any individual or business and such property, business or represented or served individual or business (i)
1902 is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or
1903 detriment as a result of the action of the agency considering the transaction. A "personal interest in a
1904 transaction" exists only if the legislator or member of his immediate family or an individual or business
1905 represented or served by the legislator is affected in a way that is substantially different from the general
1906 public or from persons comprising a profession, occupation, trade, business or other comparable and
1907 generally recognizable class or group of which he or the individual or business he represents or serves is
1908 a member.

1909 "Transaction" means any matter considered by the General Assembly, whether in a committee,
1910 subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which
1911 official action is taken or contemplated.

1912 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

1913 **§ 32.1-46.01. Virginia Immunization Information System.**

1914 A. The Board of Health shall establish the Virginia Immunization Information System (VIIS), a
1915 statewide immunization registry that consolidates patient immunization histories from birth to death into

1916 a complete, accurate, and definitive record that may be made available to participating health care
1917 providers throughout Virginia, to the extent funds are appropriated by the General Assembly or otherwise
1918 made available. The purposes of VIIS shall be to (i) protect the public health of all citizens of the
1919 Commonwealth, (ii) prevent under- and over-immunization of children, (iii) ensure up-to-date
1920 recommendations for immunization scheduling to health care providers and the Board, (iv) generate
1921 parental reminder and recall notices and manufacturer recalls, (v) develop immunization coverage reports,
1922 (vi) identify areas of under-immunized population, and (vii) provide, in the event of a public health
1923 emergency, a mechanism for tracking the distribution and administration of immunizations, immune
1924 globulins, or other preventive medications or emergency treatments.

1925 B. The Board of Health shall promulgate regulations to implement the VIIS that shall address:

1926 1. Registration of voluntary participants, including, but not limited to, a list of those health care
1927 entities that are authorized to participate and any forms and agreements necessary for compliance with the
1928 regulations concerning patient privacy promulgated by the federal Department of Health and Human
1929 Services;

1930 2. Procedures for confirming, continuing, and terminating participation and disciplining any
1931 participant for unauthorized use or disclosure of any VIIS data;

1932 3. Procedures, timelines, and formats for reporting of immunizations by participants;

1933 4. Procedures to provide for a secure system of data entry that may include encrypted online data
1934 entry or secure delivery of data files;

1935 5. Procedures for incorporating the data reported on children's immunizations pursuant to
1936 subsection E of § 32.1-46;

1937 6. The patient identifying data to be reported, including, but not limited to, the patient's name, date
1938 of birth, gender, telephone number, home address, birth place, and ~~mother's maiden name~~ the former
1939 surnames of the patient's parents;

1940 7. The patient immunization information to be reported, including, but not necessarily limited to,
1941 the type of immunization administered (specified by current procedural terminology (CPT) code or Health

1942 Level 7 (HL7) code); date of administration; identity of administering person; lot number; and if present,
1943 any contraindications, or religious or medical exemptions;

1944 8. Mechanisms for entering into data-sharing agreements with other state and regional
1945 immunization registries for the exchange, on a periodic nonemergency basis and in the event of a public
1946 health emergency, of patient immunization information, after receiving, in writing, satisfactory assurances
1947 for the preservation of confidentiality, a clear description of the data requested, specific details on the
1948 intended use of the data, and the identities of the persons with whom the data will be shared;

1949 9. Procedures for the use of vital statistics data, including, but not necessarily limited to, the linking
1950 of birth certificates and death certificates;

1951 10. Procedures for requesting immunization records that are in compliance with the requirements
1952 for disclosing health records set forth in § 32.1-127.1:03; such procedures shall address the approved uses
1953 for the requested data, to whom the data may be disclosed, and information on the provisions for disclosure
1954 of health records pursuant to § 32.1-127.1:03;

1955 11. Procedures for releasing aggregate data, from which personal identifying data has been
1956 removed or redacted, to qualified persons for purposes of research, statistical analysis, and reporting; and

1957 12. Procedures for the Commissioner of Health to access and release, as necessary, the data
1958 contained in VIIS in the event of an epidemic or an outbreak of any vaccine-preventable disease or the
1959 potential epidemic or epidemic of any disease of public health importance, public health significance, or
1960 public health threat for which a treatment or vaccine exists.

1961 The Board's regulations shall also include any necessary definitions for the operation of VIIS;
1962 however, "health care entity," "health care plan," and "health care provider" shall be as defined in
1963 subsection B of § 32.1-127.1:03.

1964 C. The establishment and implementation of VIIS is hereby declared to be a necessary public
1965 health activity to ensure the integrity of the health care system in Virginia and to prevent serious harm and
1966 serious threats to the health and safety of individuals and the public. Pursuant to the regulations concerning
1967 patient privacy promulgated by the federal Department of Health and Human Services, covered entities
1968 may disclose protected health information to the secure system established for VIIS without obtaining

1969 consent or authorization for such disclosure. Such protected health information shall be used exclusively
1970 for the purposes established in this section.

1971 D. The Board and Commissioner of Health, any employees of the health department, any voluntary
1972 participant, and any person authorized to report or disclose immunization data hereunder shall be immune
1973 from civil liability in connection therewith unless such person acted with gross negligence or malicious
1974 intent.

1975 E. This section shall not diminish the responsibility of any physician or other person to maintain
1976 accurate patient immunization data or the responsibility of any parent, guardian, or person standing in loco
1977 parentis to cause a child to be immunized in accordance with the provisions of § 32.1-46. Further, this
1978 section shall not be construed to require the immunization of any person who objects thereto on the
1979 grounds that the administration of immunizing agents conflicts with his religious tenets or practices, or
1980 any person for whom administration of immunizing agents would be detrimental to his health.

1981 F. The Commissioner may authorize linkages between VIIS and other secure electronic databases
1982 that contain health records reported to the Department of Health, subject to all state and federal privacy
1983 laws and regulations. These health records may include newborn screening results reported pursuant to §
1984 32.1-65, newborn hearing screening results reported pursuant to § 32.1-64.1, and blood-lead level
1985 screening results reported pursuant to § 32.1-46.1. Health care providers authorized to use VIIS may view
1986 the health records of individuals to whom the providers are providing health care services.

1987 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

1988 **§ 32.1-102.3:2. Certificates of public need; applications to be filed in response to Requests**
1989 **for Applications (RFAs).**

1990 A. Except for applications for continuing care retirement community nursing home bed projects
1991 filed by continuing care providers registered with the State Corporation Commission pursuant to Chapter
1992 49 (§ 38.2-4900 et seq.) of Title 38.2 which comply with the requirements established in this section, the
1993 Commissioner shall approve, authorize or accept applications for the issuance of any certificate of public
1994 need pursuant to this article only in response to Requests for Applications (RFAs) for any project which

1995 would result in an increase in the number of beds in a planning district in which nursing facility or extended
1996 care services are provided, except as provided in § 32.1-102.3:7.

1997 B. The Board shall adopt regulations establishing standards for the approval and issuance of
1998 Requests for Applications by the Commissioner. The standards shall include, but shall not be limited to,
1999 a requirement that determinations of need take into account any limitations on access to existing nursing
2000 home beds in the planning districts. The RFAs, which shall be published at least annually, shall be jointly
2001 developed by the Department and the Department of Medical Assistance Services. RFAs shall be based
2002 on analyses of the need, or lack thereof, for increases in the nursing home bed supply in each of the
2003 Commonwealth's planning districts in accordance with standards adopted by the Board by regulation. The
2004 Commissioner shall only accept for review applications in response to such RFAs which conform with
2005 the geographic and bed need determinations of the specific RFA.

2006 C. Sixty days prior to the Commissioner's approval and issuance of any RFA, the Board shall
2007 publish the proposed RFA in the Virginia Register for public comment together with an explanation of (i)
2008 the regulatory basis for the planning district bed needs set forth in the RFA and (ii) the rationale for the
2009 RFA's planning district designations. Any person objecting to the contents of the proposed RFA may
2010 notify, within 14 days of the publication, the Board and the Commissioner of his objection and the
2011 objection's regulatory basis. The Commissioner shall prepare, and deliver by registered mail, a written
2012 response to each such objection within two weeks of the date of receiving the objection. The objector may
2013 file a rebuttal to the Commissioner's response in writing within five days of receiving the Commissioner's
2014 response. If objections are received, the Board may, after considering the provisions of the RFA, any
2015 objections, the Commissioner's responses, and if filed, any written rebuttals of the Commissioner's
2016 responses, hold a public hearing to receive comments on the specific RFA. Prior to making a decision on
2017 the RFA, the Commissioner shall consider any recommendations made by the Board.

2018 D. Except for a continuing care retirement community applying for a certificate of public need
2019 pursuant to provisions of subsections A, B, and C, applications for continuing care retirement community
2020 nursing home bed projects shall be accepted by the Commissioner only if the following criteria are met:
2021 (i) the facility is registered with the State Corporation Commission as a continuing care provider pursuant

2022 to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, (ii) the number of new nursing home beds requested in
2023 the initial application does not exceed the lesser of 20 percent of the continuing care retirement
2024 community's total number of beds that are not nursing home beds or 60 beds, (iii) the number of new
2025 nursing home beds requested in any subsequent application does not cause the continuing care retirement
2026 community's total number of nursing home beds to exceed 20 percent of its total number of beds that are
2027 not nursing home beds, and (iv) the continuing care retirement community has established a qualified
2028 resident assistance policy.

2029 E. The Commissioner may approve an initial certificate of public need for nursing home beds in a
2030 continuing care retirement community not to exceed the lesser of 60 beds or 20 percent of the total number
2031 of beds that are not nursing home beds which authorizes an initial one-time, three-year open admission
2032 period during which the continuing care retirement community may accept direct admissions into its
2033 nursing home beds. The Commissioner may approve a certificate of public need for nursing home beds in
2034 a continuing care retirement community in addition to those nursing home beds requested for the initial
2035 one-time, three-year open admission period if (i) the number of new nursing home beds requested in any
2036 subsequent application does not cause the continuing care retirement community's total number of nursing
2037 home beds to exceed 20 percent of its total number of beds that are not nursing beds, (ii) the number of
2038 licensed nursing home beds within the continuing care retirement community does not and will not exceed
2039 20 percent of the number of occupied beds that are not nursing beds, and (iii) no open-admission period
2040 is allowed for these nursing home beds. Upon the expiration of any initial one-time, three-year open
2041 admission period, a continuing care retirement community which has obtained a certificate of public need
2042 for a nursing facility project pursuant to subsection D may admit into its nursing home beds (a) a standard
2043 contract holder who has been a bona fide resident of the non-nursing home portion of the continuing care
2044 retirement community for at least 30 days, (b) a person who is a standard contract holder who has lived in
2045 the non-nursing home portion of the continuing care retirement community for less than 30 days but who
2046 requires nursing home care due to change in health status since admission to the continuing care retirement
2047 community, (c) a person who is a family member of a standard contract holder residing in a non-nursing
2048 home portion of the continuing care retirement community, (d) a person who is an employee or a member

2049 of the board of trustees or board of directors of the continuing care retirement community, (e) a person
2050 who is a family member of an employee or a member of the board of trustees or board of directors of the
2051 continuing care retirement community, or (f) a person who is an accredited practitioner of the religious
2052 organization or denomination with which the continuing care retirement community is affiliated.

2053 F. Any continuing care retirement community applicant for a certificate of public need to increase
2054 the number of nursing home beds shall authorize the State Corporation Commission to disclose such
2055 information to the Commissioner as may be in the State Corporation Commission's possession concerning
2056 such continuing care retirement community in order to allow the Commissioner to enforce the provisions
2057 of this section. The State Corporation Commission shall provide the Commissioner with the requested
2058 information when so authorized.

2059 G. For the purposes of this section:

2060 "Family member" means spouse, ~~mother, father, son, daughter, brother, sister, aunt, uncle, parent,~~
2061 child, sibling, parent's sibling, or cousin by blood, marriage, or adoption.

2062 "One-time, three-year open admission period" means the three years after the initial licensure of
2063 nursing home beds during which the continuing care retirement community may take admissions directly
2064 into its nursing home beds without the signing of a standard contract. The facility or a related facility on
2065 the same campus shall not be granted any open admissions period for any subsequent application or
2066 authorization for nursing home beds.

2067 "Qualified resident assistance policy" means a procedure, consistently followed by a facility,
2068 pursuant to which the facility endeavors to avoid requiring a resident to leave the facility because of
2069 inability to pay regular charges and which complies with the requirements of the Internal Revenue Service
2070 for maintenance of status as a tax exempt charitable organization under § 501(c)(3) of the Internal Revenue
2071 Code. This policy shall be (i) generally made known to residents through the resident contract and (ii)
2072 supported by reasonable and consistent efforts to promote the availability of funds, either through a special
2073 fund, separate foundation or access to other available funds, to assist residents who are unable to pay
2074 regular charges in whole or in part.

2075 This policy may (a) take into account the sound financial management of the facility, including
2076 existing reserves, and the reasonable requirements of lenders and (b) include requirements that residents
2077 seeking such assistance provide all requested financial information and abide by reasonable conditions,
2078 including seeking to qualify for other assistance and restrictions on the transfer of assets to third parties.

2079 A qualified resident assistance policy shall not constitute the business of insurance as defined in
2080 Chapter 1 (§ 38.2-100 et seq.) of Title 38.2.

2081 "Standard contract" means a contract requiring the same entrance fee, terms, and conditions as
2082 contracts executed with residents of the non-nursing home portion of the facility, if the entrance fee is no
2083 less than the amount defined in § 38.2-4900.

2084 H. This section shall not be construed to prohibit or prevent a continuing care retirement
2085 community from discharging a resident (i) for breach of nonfinancial contract provisions, (ii) if medically
2086 appropriate care can no longer be provided to the resident, or (iii) if the resident is a danger to himself or
2087 others while in the facility.

2088 I. The provisions of subsections D, E, and H shall not affect any certificate of public need issued
2089 prior to July 1, 1998; however, any certificate of public need application for additional nursing home beds
2090 shall be subject to the provisions of this act.

2091 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

2092 **§ 32.1-127.1:03. Health records privacy.**

2093 A. There is hereby recognized an individual's right of privacy in the content of his health records.
2094 Health records are the property of the health care entity maintaining them, and, except when permitted or
2095 required by this section or by other provisions of state law, no health care entity, or other person working
2096 in a health care setting, may disclose an individual's health records.

2097 Pursuant to this subsection:

2098 1. Health care entities shall disclose health records to the individual who is the subject of the health
2099 record, except as provided in subsections E and F and subsection B of § 8.01-413.

2100 2. Health records shall not be removed from the premises where they are maintained without the
2101 approval of the health care entity that maintains such health records, except in accordance with a court

2102 order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with
2103 the regulations relating to change of ownership of health records promulgated by a health regulatory board
2104 established in Title 54.1.

2105 3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health
2106 records of an individual, beyond the purpose for which such disclosure was made, without first obtaining
2107 the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not,
2108 however, prevent (i) any health care entity that receives health records from another health care entity
2109 from making subsequent disclosures as permitted under this section and the federal Department of Health
2110 and Human Services regulations relating to privacy of the electronic transmission of data and protected
2111 health information promulgated by the United States Department of Health and Human Services as
2112 required by the Health Insurance Portability and Accountability Act (HIPAA)(42 U.S.C. § 1320d et seq.)
2113 or (ii) any health care entity from furnishing health records and aggregate or other data, from which
2114 individually identifying prescription information has been removed, encoded or encrypted, to qualified
2115 researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors,
2116 for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services
2117 research.

2118 4. Health care entities shall, upon the request of the individual who is the subject of the health
2119 record, disclose health records to other health care entities, in any available format of the requester's
2120 choosing, as provided in subsection E.

2121 B. As used in this section:

2122 "Agent" means a person who has been appointed as an individual's agent under a power of attorney
2123 for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

2124 "Certification" means a written representation that is delivered by hand, by first-class mail, by
2125 overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated
2126 confirmation reflecting that all facsimile pages were successfully transmitted.

2127 "Guardian" means a court-appointed guardian of the person.

2128 "Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103,
2129 a public or private entity, such as a billing service, repricing company, community health management
2130 information system or community health information system, and "value-added" networks and switches,
2131 that performs either of the following functions: (i) processes or facilitates the processing of health
2132 information received from another entity in a nonstandard format or containing nonstandard data content
2133 into standard data elements or a standard transaction; or (ii) receives a standard transaction from another
2134 entity and processes or facilitates the processing of health information into nonstandard format or
2135 nonstandard data content for the receiving entity.

2136 "Health care entity" means any health care provider, health plan or health care clearinghouse.

2137 "Health care provider" means those entities listed in the definition of "health care provider" in §
2138 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the
2139 purposes of this section. Health care provider shall also include all persons who are licensed, certified,
2140 registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory
2141 boards within the Department of Health Professions, except persons regulated by the Board of Funeral
2142 Directors and Embalmers or the Board of Veterinary Medicine.

2143 "Health plan" means an individual or group plan that provides, or pays the cost of, medical care.

2144 "Health plan" includes any entity included in such definition as set out in 45 C.F.R. § 160.103.

2145 "Health record" means any written, printed or electronically recorded material maintained by a
2146 health care entity in the course of providing health services to an individual concerning the individual and
2147 the services provided. "Health record" also includes the substance of any communication made by an
2148 individual to a health care entity in confidence during or in connection with the provision of health services
2149 or information otherwise acquired by the health care entity about an individual in confidence and in
2150 connection with the provision of health services to the individual.

2151 "Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment,
2152 pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as
2153 payment or reimbursement for any such services.

2154 "Individual" means a patient who is receiving or has received health services from a health care
2155 entity.

2156 "Individually identifying prescription information" means all prescriptions, drug orders or any
2157 other prescription information that specifically identifies an individual.

2158 "Parent" means a biological, adoptive or foster parent.

2159 "Psychotherapy notes" means comments, recorded in any medium by a health care provider who
2160 is a mental health professional, documenting or analyzing the contents of conversation during a private
2161 counseling session with an individual or a group, joint, or family counseling session that are separated
2162 from the rest of the individual's health record. "Psychotherapy notes" does not include annotations relating
2163 to medication and prescription monitoring, counseling session start and stop times, treatment modalities
2164 and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional
2165 status, treatment plan, or the individual's progress to date.

2166 C. The provisions of this section shall not apply to any of the following:

- 2167 1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia
2168 Workers' Compensation Act;
- 2169 2. Except where specifically provided herein, the health records of minors; or
- 2170 3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to §
2171 16.1-248.3.

2172 D. Health care entities may, and, when required by other provisions of state law, shall, disclose
2173 health records:

- 2174 1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in
2175 the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment
2176 of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment
2177 pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an
2178 individual's written authorization, pursuant to the individual's oral authorization for a health care provider
2179 or health plan to discuss the individual's health records with a third party specified by the individual;

2180 2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant
2181 or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a
2182 subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records
2183 relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this
2184 subdivision shall be construed to prohibit any staff or employee of a health care entity from providing
2185 information about such individual to a law-enforcement officer in connection with such subpoena, search
2186 warrant, or court order;

2187 3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where
2188 disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health
2189 care entity's employees or staff against any accusation of wrongful conduct; also as required in the course
2190 of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly
2191 authorized law-enforcement, licensure, accreditation, or professional review entity;

2192 4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

2193 5. In compliance with the provisions of § 8.01-413;

2194 6. As required or authorized by law relating to public health activities, health oversight activities,
2195 serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease,
2196 public safety, and suspected child or adult abuse reporting requirements, including, but not limited to,
2197 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-
2198 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,
2199 54.1-2506, 54.1-2966, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

2200 7. Where necessary in connection with the care of the individual;

2201 8. In connection with the health care entity's own health care operations or the health care
2202 operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of
2203 business in accordance with accepted standards of practice within the health services setting; however, the
2204 maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a
2205 pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-
2206 3410, 54.1-3411, and 54.1-3412;

2207 9. When the individual has waived his right to the privacy of the health records;

2208 10. When examination and evaluation of an individual are undertaken pursuant to judicial or
2209 administrative law order, but only to the extent as required by such order;

2210 11. To the guardian ad litem and any attorney representing the respondent in the course of a
2211 guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§
2212 64.2-2000 et seq.) of Title 64.2;

2213 12. To the guardian ad litem and any attorney appointed by the court to represent an individual
2214 who is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5
2215 (§ 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,
2216 or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title
2217 37.2;

2218 13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et
2219 seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority
2220 or a designee of a community services board or behavioral health authority, or a law-enforcement officer
2221 participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, § 19.2-
2222 169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any
2223 health care provider evaluating or providing services to the person who is the subject of the proceeding or
2224 monitoring the person's adherence to a treatment plan ordered under those provisions. Health records
2225 disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the
2226 person, or the public from physical injury or to address the health care needs of the person. Information
2227 disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or
2228 retained;

2229 14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial
2230 or administrative proceeding, if the court or administrative hearing officer has entered an order granting
2231 the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the
2232 health care entity of such order;

- 2233 15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health
2234 records in accord with § 9.1-156;
- 2235 16. To an agent appointed under an individual's power of attorney or to an agent or decision maker
2236 designated in an individual's advance directive for health care or for decisions on anatomical gifts and
2237 organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care
2238 Decisions Act (§ 54.1-2981 et seq.);
- 2239 17. To third-party payors and their agents for purposes of reimbursement;
- 2240 18. As is necessary to support an application for receipt of health care benefits from a governmental
2241 agency or as required by an authorized governmental agency reviewing such application or reviewing
2242 benefits already provided or as necessary to the coordination of prevention and control of disease, injury,
2243 or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;
- 2244 19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership
2245 or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;
- 2246 20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and
2247 immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;
- 2248 21. Where necessary in connection with the implementation of a hospital's routine contact process
2249 for organ donation pursuant to subdivision B 4 of § 32.1-127;
- 2250 22. In the case of substance abuse records, when permitted by and in conformity with requirements
2251 of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;
- 2252 23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate
2253 the adequacy or quality of professional services or the competency and qualifications for professional staff
2254 privileges;
- 2255 24. If the health records are those of a deceased or mentally incapacitated individual to the personal
2256 representative or executor of the deceased individual or the legal guardian or committee of the incompetent
2257 or incapacitated individual or if there is no personal representative, executor, legal guardian or committee
2258 appointed, to the following persons in the following order of priority: a spouse, an adult ~~son or daughter~~

2259 child, either parent, an adult ~~brother or sister~~ sibling, or any other relative of the deceased individual in
2260 order of blood relationship;

2261 25. For the purpose of conducting record reviews of inpatient hospital deaths to promote
2262 identification of all potential organ, eye, and tissue donors in conformance with the requirements of
2263 applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's
2264 designated organ procurement organization certified by the United States Health Care Financing
2265 Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association
2266 of America or the American Association of Tissue Banks;

2267 26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title
2268 2.2;

2269 27. To an entity participating in the activities of a local health partnership authority established
2270 pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

2271 28. To law-enforcement officials by each licensed emergency medical services agency, (i) when
2272 the individual is the victim of a crime or (ii) when the individual has been arrested and has received
2273 emergency medical services or has refused emergency medical services and the health records consist of
2274 the prehospital patient care report required by § 32.1-116.1;

2275 29. To law-enforcement officials, in response to their request, for the purpose of identifying or
2276 locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and
2277 Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following
2278 information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person,
2279 (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment
2280 received by the person, (vi) date and time of death of the person, where applicable, (vii) description of
2281 distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

2282 30. To law-enforcement officials regarding the death of an individual for the purpose of alerting
2283 law enforcement of the death if the health care entity has a suspicion that such death may have resulted
2284 from criminal conduct;

2285 31. To law-enforcement officials if the health care entity believes in good faith that the information
2286 disclosed constitutes evidence of a crime that occurred on its premises;

2287 32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a
2288 person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article
2289 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

2290 33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed
2291 emergency medical services agency when the records consist of the prehospital patient care report required
2292 by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or
2293 tasks that are within the scope of his employment;

2294 34. To notify a family member or personal representative of an individual who is the subject of a
2295 proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-
2296 800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the
2297 individual's health care, which may include the individual's location and general condition, when the
2298 individual has the capacity to make health care decisions and (i) the individual has agreed to the
2299 notification, (ii) the individual has been provided an opportunity to object to the notification and does not
2300 express an objection, or (iii) the health care provider can, on the basis of his professional judgment,
2301 reasonably infer from the circumstances that the individual does not object to the notification. If the
2302 opportunity to agree or object to the notification cannot practicably be provided because of the individual's
2303 incapacity or an emergency circumstance, the health care provider may notify a family member or personal
2304 representative of the individual of information that is directly relevant to such person's involvement with
2305 the individual's health care, which may include the individual's location and general condition if the health
2306 care provider, in the exercise of his professional judgment, determines that the notification is in the best
2307 interests of the individual. Such notification shall not be made if the provider has actual knowledge the
2308 family member or personal representative is currently prohibited by court order from contacting the
2309 individual;

2310 35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a
2311 public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher
2312 education; and

2313 36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes
2314 limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

2315 Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an
2316 individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by
2317 the health care entity is (i) for its own training programs in which students, trainees, or practitioners in
2318 mental health are being taught under supervision to practice or to improve their skills in group, joint,
2319 family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of
2320 wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to
2321 take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the
2322 course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly
2323 authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise
2324 required by law.

2325 E. Health care records required to be disclosed pursuant to this section shall be made available
2326 electronically only to the extent and in the manner authorized by the federal Health Information
2327 Technology for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the
2328 Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and implementing
2329 regulations. Notwithstanding any other provision to the contrary, a health care entity shall not be required
2330 to provide records in an electronic format requested if (i) the electronic format is not reasonably available
2331 without additional cost to the health care entity, (ii) the records would be subject to modification in the
2332 format requested, or (iii) the health care entity determines that the integrity of the records could be
2333 compromised in the electronic format requested. Requests for copies of or electronic access to health
2334 records shall (a) be in writing, dated and signed by the requester; (b) identify the nature of the information
2335 requested; and (c) include evidence of the authority of the requester to receive such copies or access such
2336 records, and identification of the person to whom the information is to be disclosed; and (d) specify

2337 whether the requester would like the records in electronic format, if available, or in paper format. The
2338 health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the requester
2339 as if it were an original. Within 30 days of receipt of a request for copies of or electronic access to health
2340 records, the health care entity shall do one of the following: (1) furnish such copies of or allow electronic
2341 access to the requested health records to any requester authorized to receive them in electronic format if
2342 so requested; (2) inform the requester if the information does not exist or cannot be found; (3) if the health
2343 care entity does not maintain a record of the information, so inform the requester and provide the name
2344 and address, if known, of the health care entity who maintains the record; or (4) deny the request (A) under
2345 subsection F, (B) on the grounds that the requester has not established his authority to receive such health
2346 records or proof of his identity, or (C) as otherwise provided by law. Procedures set forth in this section
2347 shall apply only to requests for health records not specifically governed by other provisions of state law.

2348 F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an
2349 individual's health records shall not be furnished to such individual or anyone authorized to act on the
2350 individual's behalf when the individual's treating physician or the individual's treating clinical
2351 psychologist has made a part of the individual's record a written statement that, in the exercise of his
2352 professional judgment, the furnishing to or review by the individual of such health records would be
2353 reasonably likely to endanger the life or physical safety of the individual or another person, or that such
2354 health record makes reference to a person other than a health care provider and the access requested would
2355 be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies
2356 a request for copies of or electronic access to health records based on such statement, the health care entity
2357 shall inform the individual of the individual's right to designate, in writing, at his own expense, another
2358 reviewing physician or clinical psychologist, whose licensure, training and experience relative to the
2359 individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose
2360 opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a
2361 judgment as to whether to make the health record available to the individual.

2362 The health care entity denying the request shall also inform the individual of the individual's right
2363 to request in writing that such health care entity designate, at its own expense, a physician or clinical

2364 psychologist, whose licensure, training, and experience relative to the individual's condition are at least
2365 equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial
2366 is based and who did not participate in the original decision to deny the health records, who shall make a
2367 judgment as to whether to make the health record available to the individual. The health care entity shall
2368 comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall
2369 permit copying and examination of the health record by such other physician or clinical psychologist
2370 designated by either the individual at his own expense or by the health care entity at its expense.

2371 Any health record copied for review by any such designated physician or clinical psychologist
2372 shall be accompanied by a statement from the custodian of the health record that the individual's treating
2373 physician or clinical psychologist determined that the individual's review of his health record would be
2374 reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to
2375 cause substantial harm to a person referenced in the health record who is not a health care provider.

2376 Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive
2377 copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized
2378 to act on his behalf.

2379 G. A written authorization to allow release of an individual's health records shall substantially
2380 include the following information:

2381 AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS

2382 Individual's Name

2383 Health Care Entity's Name

2384 Person, Agency, or Health Care Entity to whom disclosure is to be made

2385

2386 Information or Health Records to be disclosed

2387

2388 Purpose of Disclosure or at the Request of the Individual

2389

2390 As the person signing this authorization, I understand that I am giving my
2391 permission to the above-named health care entity for disclosure of
2392 confidential health records. I understand that the health care entity may not
2393 condition treatment or payment on my willingness to sign this authorization
2394 unless the specific circumstances under which such conditioning is permitted
2395 by law are applicable and are set forth in this authorization. I also
2396 understand that I have the right to revoke this authorization at any time, but
2397 that my revocation is not effective until delivered in writing to the person
2398 who is in possession of my health records and is not effective as to health
2399 records already disclosed under this authorization. A copy of this
2400 authorization and a notation concerning the persons or agencies to whom
2401 disclosure was made shall be included with my original health records. I
2402 understand that health information disclosed under this authorization might be
2403 redisclosed by a recipient and may, as a result of such disclosure, no longer
2404 be protected to the same extent as such health information was protected by
2405 law while solely in the possession of the health care entity.

2406 This authorization expires on (date) or (event)

2407 Signature of Individual or Individual's Legal Representative if Individual
2408 is Unable to Sign

2409

2410 Relationship or Authority of Legal Representative

2411

2412 Date of Signature

2413 H. Pursuant to this subsection:

2414 1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or
2415 administrative action or proceeding shall request the issuance of a subpoena duces tecum for another
2416 party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the

2417 request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel
2418 or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party
2419 to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health
2420 records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-
2421 issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of
2422 the attorney-issued subpoena.

2423 No subpoena duces tecum for health records shall set a return date earlier than 15 days from the
2424 date of the subpoena except by order of a court or administrative agency for good cause shown. When a
2425 court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum
2426 earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

2427 Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena
2428 duces tecum is being issued shall have the duty to determine whether the individual whose health records
2429 are being sought is pro se or a nonparty.

2430 In instances where health records being subpoenaed are those of a pro se party or nonparty witness,
2431 the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together
2432 with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued
2433 subpoena, a statement informing them of their rights and remedies. The statement shall include the
2434 following language and the heading shall be in boldface capital letters:

2435 NOTICE TO INDIVIDUAL

2436 The attached document means that (insert name of party requesting or causing issuance of the
2437 subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been
2438 issued by the other party's attorney to your doctor, other health care providers (names of health care
2439 providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring
2440 them to produce your health records. Your doctor, other health care provider or other health care entity is
2441 required to respond by providing a copy of your health records. If you believe your health records should
2442 not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the
2443 court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such

2444 motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You
2445 may contact the clerk's office or the administrative agency to determine the requirements that must be
2446 satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest.
2447 If you elect to file a motion to quash, you must notify your doctor, other health care provider(s), or other
2448 health care entity, that you are filing the motion so that the health care provider or health care entity knows
2449 to send the health records to the clerk of court or administrative agency in a sealed envelope or package
2450 for safekeeping while your motion is decided.

2451 2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued
2452 for an individual's health records shall include a Notice in the same part of the request in which the
2453 recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice
2454 shall be in boldface capital letters and shall include the following language:

2455 NOTICE TO HEALTH CARE ENTITIES

2456 A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE
2457 INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU
2458 OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE
2459 ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE
2460 THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

2461 YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED
2462 WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS
2463 ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

2464 NO MOTION TO QUASH WAS FILED; OR

2465 ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE
2466 ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH
2467 SUCH RESOLUTION.

2468 IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE
2469 BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A
2470 MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO

2471 THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA
2472 OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE
2473 FOLLOWING PROCEDURE:

2474 PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE
2475 SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE
2476 AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND
2477 ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE
2478 SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN
2479 OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR
2480 ADMINISTRATIVE AGENCY.

2481 3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have
2482 the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

2483 4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in
2484 a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such
2485 health records until they have received a certification as set forth in subdivision 5 or 8 from the party on
2486 whose behalf the subpoena duces tecum was issued.

2487 If the health care entity has actual receipt of notice that a motion to quash the subpoena has been
2488 filed or if the health care entity files a motion to quash the subpoena for health records, then the health
2489 care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or
2490 administrative agency issuing the subpoena or in whose court or administrative agency the action is
2491 pending. The court or administrative agency shall place the health records under seal until a determination
2492 is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the
2493 judge or administrative agency. In the event the court or administrative agency grants the motion to quash,
2494 the health records shall be returned to the health care entity in the same sealed envelope in which they
2495 were delivered to the court or administrative agency. In the event that a judge or administrative agency
2496 orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall

2497 accompany any health records returned to the health care entity. The health records returned to the health
2498 care entity shall be in a securely sealed envelope.

2499 5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued
2500 subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the
2501 subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to
2502 quash was filed. Any health care entity receiving such certification shall have the duty to comply with the
2503 subpoena duces tecum by returning the specified health records by either the return date on the subpoena
2504 or five days after receipt of the certification, whichever is later.

2505 6. In the event that the individual whose health records are being sought files a motion to quash
2506 the subpoena, the court or administrative agency shall decide whether good cause has been shown by the
2507 discovering party to compel disclosure of the individual's health records over the individual's objections.
2508 In determining whether good cause has been shown, the court or administrative agency shall consider (i)
2509 the particular purpose for which the information was collected; (ii) the degree to which the disclosure of
2510 the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure
2511 on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding;
2512 and (v) any other relevant factor.

2513 7. Concurrent with the court or administrative agency's resolution of a motion to quash, if
2514 subpoenaed health records have been submitted by a health care entity to the court or administrative
2515 agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no
2516 submitted health records should be disclosed, return all submitted health records to the health care entity
2517 in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide
2518 all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon
2519 determining that only a portion of the submitted health records should be disclosed, provide such portion
2520 to the party on whose behalf the subpoena was issued and return the remaining health records to the health
2521 care entity in a sealed envelope.

2522 8. Following the court or administrative agency's resolution of a motion to quash, the party on
2523 whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the
2524 subpoenaed health care entity a statement of one of the following:

2525 a. All filed motions to quash have been resolved by the court or administrative agency and the
2526 disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the
2527 health records previously delivered in a sealed envelope to the clerk of the court or administrative agency
2528 will not be returned to the health care entity;

2529 b. All filed motions to quash have been resolved by the court or administrative agency and the
2530 disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no
2531 health records have previously been delivered to the court or administrative agency by the health care
2532 entity, the health care entity shall comply with the subpoena duces tecum by returning the health records
2533 designated in the subpoena by the return date on the subpoena or five days after receipt of certification,
2534 whichever is later;

2535 c. All filed motions to quash have been resolved by the court or administrative agency and the
2536 disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no
2537 health records shall be disclosed and all health records previously delivered in a sealed envelope to the
2538 clerk of the court or administrative agency will be returned to the health care entity;

2539 d. All filed motions to quash have been resolved by the court or administrative agency and the
2540 disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only
2541 limited disclosure has been authorized. The certification shall state that only the portion of the health
2542 records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be
2543 disclosed. The certification shall also state that health records that were previously delivered to the court
2544 or administrative agency for which disclosure has been authorized will not be returned to the health care
2545 entity; however, all health records for which disclosure has not been authorized will be returned to the
2546 health care entity; or

2547 e. All filed motions to quash have been resolved by the court or administrative agency and the
2548 disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health

2549 records have previously been delivered to the court or administrative agency by the health care entity, the
2550 health care entity shall return only those health records specified in the certification, consistent with the
2551 court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the
2552 certification, whichever is later.

2553 A copy of the court or administrative agency's ruling shall accompany any certification made
2554 pursuant to this subdivision.

2555 9. The provisions of this subsection have no application to subpoenas for health records requested
2556 under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit,
2557 review or proceedings regarding a health care entity's conduct.

2558 The provisions of this subsection shall apply to subpoenas for the health records of both minors
2559 and adults.

2560 Nothing in this subsection shall have any effect on the existing authority of a court or
2561 administrative agency to issue a protective order regarding health records, including, but not limited to,
2562 ordering the return of health records to a health care entity, after the period for filing a motion to quash
2563 has passed.

2564 A subpoena for substance abuse records must conform to the requirements of federal law found in
2565 42 C.F.R. Part 2, Subpart E.

2566 I. Health care entities may testify about the health records of an individual in compliance with §§
2567 8.01-399 and 8.01-400.2.

2568 J. If an individual requests a copy of his health record from a health care entity, the health care
2569 entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor
2570 of copying the requested information, postage when the individual requests that such information be
2571 mailed, and preparation of an explanation or summary of such information as agreed to by the individual.
2572 For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the
2573 individual who is the subject of the health record in making decisions related to his health care.

2574 K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a
2575 controlled substance required to be reported to the Prescription Monitoring Program established pursuant

2576 to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from
2577 the Prescription Monitoring Program and contained in a patient's health care record to another health care
2578 provider when such disclosure is related to the care or treatment of the patient who is the subject of the
2579 record.

2580 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

2581 **§ 32.1-162.1. Definitions.**

2582 As used in this article unless a different meaning or construction is clearly required by the context
2583 or otherwise:

2584 "Hospice" means a coordinated program of home and inpatient care provided directly or through
2585 an agreement under the direction of an identifiable hospice administration providing palliative and
2586 supportive medical and other health services to terminally ill patients and their families. A hospice utilizes
2587 a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical,
2588 psychological, social, spiritual and other special needs which are experienced during the final stages of
2589 illness, and during dying and bereavement. Hospice care shall be available twenty-four hours a day, seven
2590 days a week.

2591 "Hospice facility" means an institution, place, or building owned or operated by a hospice provider
2592 and licensed by the Department to provide room, board, and appropriate hospice care on a 24-hour basis,
2593 including respite and symptom management, to individuals requiring such care pursuant to the orders of
2594 a physician. Such facilities with 16 or fewer beds are exempt from Certificate of Public Need laws and
2595 regulations. Such facilities with more than 16 beds shall be licensed as a nursing facility or hospital and
2596 shall be subject to Certificate of Public Need laws and regulations.

2597 "Hospice patient" means a diagnosed terminally ill patient, with an anticipated life expectancy of
2598 six months or less, who, alone or in conjunction with designated family members, has voluntarily
2599 requested admission and been accepted into a licensed hospice program.

2600 "Hospice patient's family" shall mean the hospice patient's immediate kin, including a spouse,
2601 ~~brother, sister~~ sibling, child or parent. Other relations and individuals with significant personal ties to the

2602 hospice patient may be designated as members of the hospice patient's family by mutual agreement among
2603 the hospice patient, the relation or individual, and the hospice team.

2604 "Identifiable hospice administration" means an administrative group, individual or legal entity that
2605 has a distinct organizational structure, accountable to the governing authority directly or through a chief
2606 executive officer. This administration shall be responsible for the management of all aspects of the
2607 program.

2608 "Inpatient" means the provision of services, such as food, laundry, housekeeping, and staff to
2609 provide health or health-related services, including respite and symptom management, to hospice patients,
2610 whether in a hospital, nursing facility, or hospice facility.

2611 "Interdisciplinary team" means the patient and the patient's family, the attending physician, and
2612 the following hospice personnel: physician, nurse, social worker, and trained volunteer. Providers of
2613 special services, such as clergy, mental health, pharmacy, and any other appropriate allied health services
2614 may also be included on the team as the needs of the patient dictate.

2615 "Palliative care" means treatment directed at controlling pain, relieving other symptoms, and
2616 focusing on the special needs of the patient and family as they experience the stress of the dying process,
2617 rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation
2618 of life.

2619 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

2620 **§ 32.1-162.16. Definitions.**

2621 As used in this chapter, unless the context requires a different meaning:

2622 "Human research" means any systematic investigation, including research development, testing
2623 and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized
2624 knowledge. Human research shall not be deemed to include research exempt from federal research
2625 regulation pursuant to 45 C.F.R. § 46.101(b).

2626 "Informed consent" means the knowing and voluntary agreement, without undue inducement or
2627 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

2655 shall include an attorney in fact appointed under a durable power of attorney, to the extent the power
2656 grants the authority to make such a decision. The attorney in fact shall not be employed by the person,
2657 institution, or agency conducting the human research. No official or employee of the institution or agency
2658 conducting or authorizing the research shall be qualified to act as a legally authorized representative.

2659 "Minimal risk" means that the risks of harm anticipated in the proposed research are not greater,
2660 considering probability and magnitude, than those ordinarily encountered in daily life or during the
2661 performance of routine physical or psychological examinations or tests.

2662 "Nontherapeutic research" means human research in which there is no reasonable expectation of
2663 direct benefit to the physical or mental condition of the human subject.

2664 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

2665 **§ 32.1-283. Investigation of deaths; obtaining consent to removal of organs, etc.; fees.**

2666 A. Upon the death of any person from trauma, injury, violence, poisoning, accident, suicide or
2667 homicide, or suddenly when in apparent good health, or when unattended by a physician, or in jail, prison,
2668 other correctional institution or in police custody, or who is an individual receiving services in a state
2669 hospital or training center operated by the Department of Behavioral Health and Developmental Services,
2670 or suddenly as an apparent result of fire, or in any suspicious, unusual or unnatural manner, or the sudden
2671 death of any infant the Office of the Chief Medical Examiner shall be notified by the physician in
2672 attendance, hospital, law-enforcement officer, funeral director, or any other person having knowledge of
2673 such death. Good faith efforts shall be made by any person or institution having initial custody of the dead
2674 body to identify and to notify the next of kin of the decedent. Notification shall include informing the
2675 person presumed to be the next of kin that he has a right to have identification of the decedent confirmed
2676 without due delay and without being held financially responsible for any procedures performed for the
2677 purpose of the identification. Identity of the next of kin, if determined, shall be provided to the Office of
2678 the Chief Medical Examiner upon transfer of the dead body.

2679 B. Upon being notified of a death as provided in subsection A, the Office of the Chief Medical
2680 Examiner shall take charge of the dead body and the Chief Medical Examiner shall cause an investigation
2681 into the cause and manner of death to be made and a full report, which shall include written findings, to

2682 be prepared. In order to facilitate the investigation, the Office of the Chief Medical Examiner is authorized
2683 to inspect and copy the pertinent medical records of the decedent whose death is the subject of the
2684 investigation. Full directions as to the nature, character, and extent of the investigation to be made in such
2685 cases shall be furnished each medical examiner appointed pursuant to § 32.1-282 by the Office of the
2686 Chief Medical Examiner, together with appropriate forms for the required reports and instructions for their
2687 use. The facilities and personnel of the Office of the Chief Medical Examiner shall be made available to
2688 any medical examiner investigating a death in accordance with this section. Reports and findings of the
2689 Office of the Chief Medical Examiner shall be confidential and shall not under any circumstance be
2690 disclosed or made available for discovery pursuant to a court subpoena or otherwise, except as provided
2691 in this chapter. Nothing in this subsection shall prohibit the Office of the Chief Medical Examiner from
2692 releasing the cause or manner of death or prohibit disclosure of reports or findings to the parties in a
2693 criminal case.

2694 C. A copy of each report pursuant to this section shall be delivered to the appropriate attorney for
2695 the Commonwealth and to the appropriate law-enforcement agency investigating the death. A copy of any
2696 such report regarding the death of a victim of a traffic accident shall be furnished upon request to the State
2697 Police and the Highway Safety Commission. In addition, a copy of any autopsy report concerning an
2698 individual receiving services in a state hospital or training center operated by the Department of
2699 Behavioral Health and Developmental Services shall be delivered to the Commissioner of Behavioral
2700 Health and Developmental Services and to the State Inspector General. A copy of any autopsy report
2701 concerning a prisoner committed to the custody of the Director of the Department of Corrections shall,
2702 upon request of the Director of the Department of Corrections, be delivered to the Director of the
2703 Department of Corrections. A copy of any autopsy report concerning a prisoner committed to any local
2704 correctional facility shall be delivered to the local sheriff or superintendent. Upon request, the Office of
2705 the Chief Medical Examiner shall release such autopsy report to the decedent's attending physician and to
2706 the personal representative or executor of the decedent. At the discretion of the Chief Medical Examiner,
2707 an autopsy report may be released to the following persons in the following order of priority: (i) the spouse
2708 of the decedent, (ii) an adult ~~son or daughter~~ child of the decedent, (iii) either parent of the decedent, (iv)

2709 an adult sibling of the decedent, (v) any other adult relative of the decedent in order of blood relationship,
2710 or (vi) any appropriate health facility quality assurance program.

2711 D. For each investigation under this article, including the making of the required reports, the
2712 medical examiner appointed pursuant to § 32.1-282 shall receive a fee established by the Board within the
2713 limitations of appropriations for the purpose. Such fee shall be paid by the Commonwealth if the deceased
2714 is not a legal resident of the county or city in which his death occurred. In the event the deceased is a legal
2715 resident of the county or city in which his death occurred, such county or city shall be responsible for the
2716 fee up to \$20. If the deceased is an individual who receives services in a state hospital or training center
2717 operated by the Department of Behavioral Health and Developmental Services, the fee shall be paid by
2718 the Department of Behavioral Health and Developmental Services.

2719 E. Nothing herein shall be construed to interfere with the autopsy procedure or with the routine
2720 obtaining of consent for removal of organs as conducted by surgical teams or others.

2721 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

2722 **§ 36-96.1:1. Definitions.**

2723 For the purposes of this chapter, unless the context clearly indicates otherwise:

2724 "Aggrieved person" means any person who (i) claims to have been injured by a discriminatory
2725 housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that
2726 is about to occur.

2727 "Assistance animal" means an animal that works, provides assistance, or performs tasks for the
2728 benefit of a person with a disability, or provides emotional support that alleviates one or more identified
2729 symptoms or effects of a person's disability. Assistance animals perform many disability-related functions,
2730 including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard
2731 of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items,
2732 alerting persons to impending seizures, or providing emotional support to persons with disabilities who
2733 have a disability-related need for such support. An assistance animal is not required to be individually
2734 trained or certified. While dogs are the most common type of assistance animal, other animals can also be
2735 assistance animals. An assistance animal is not a pet.

2736 "Complainant" means a person, including the Fair Housing Board, who files a complaint under §
2737 36-96.9.

2738 "Conciliation" means the attempted resolution of issues raised by a complainant, or by the
2739 investigation of such complaint, through informal negotiations involving the aggrieved person, the
2740 respondent, their respective authorized representatives and the Fair Housing Board.

2741 "Conciliation agreement" means a written agreement setting forth the resolution of the issues in
2742 conciliation.

2743 "Discriminatory housing practices" means an act that is unlawful under § 36-96.3, 36-96.4, 36-
2744 96.5, or 36-96.6.

2745 "Dwelling" means any building, structure, or portion thereof, that is occupied as, or designated or
2746 intended for occupancy as, a residence by one or more families, and any vacant land that is offered for
2747 sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

2748 "Elderliness" means an individual who has attained his fifty-fifth birthday.

2749 "Familial status" means one or more individuals who have not attained the age of 18 years being
2750 domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii)
2751 the designee of such parent or other person having custody with the written permission of such parent or
2752 other person. The term "familial status" also includes any person who is pregnant or is in the process of
2753 securing legal custody of any individual who has not attained the age of 18 years. For purposes of this
2754 section, "in the process of securing legal custody" means having filed an appropriate petition to obtain
2755 legal custody of such minor in a court of competent jurisdiction.

2756 "Family" includes a single individual, ~~whether male or female.~~

2757 "Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially
2758 limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii)
2759 being regarded as having such an impairment. The term does not include current, illegal use of or addiction
2760 to a controlled substance as defined in Virginia or federal law. For the purposes of this chapter, the terms
2761 "handicap" and "disability" shall be interchangeable.

2762 "Lending institution" includes any bank, savings institution, credit union, insurance company or
2763 mortgage lender.

2764 "Major life activities" means, but shall not be limited to, any the following functions: caring for
2765 oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

2766 "Person" means one or more individuals, ~~whether male or female~~, corporations, partnerships,
2767 associations, labor organizations, fair housing organizations, civil rights organizations, organizations,
2768 governmental entities, legal representatives, mutual companies, joint stock companies, trusts,
2769 unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

2770 "Physical or mental impairment" means, but shall not be limited to, any of the following: (i) any
2771 physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of
2772 the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including
2773 speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or
2774 endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability,
2775 organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental
2776 impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing
2777 impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart
2778 disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities;
2779 emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled
2780 substance; and alcoholism.

2781 "Respondent" means any person or other entity alleged to have violated the provisions of this
2782 chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined
2783 pursuant to the provisions of § 36-96.9.

2784 "Restrictive covenant" means any specification in any instrument affecting title to real property
2785 that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color,
2786 religion, national origin, sex, elderliness, familial status, or handicap.

2787 "To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to
2788 occupy premises not owned by the occupant.

2789 **Drafting note: Amendments eliminate superfluous gender-specific terms.**

2790 **§ 38.2-3105. What contracts with respect to life insurance may be made by minors.**

2791 A. A minor who is at least fifteen years of age:

2792 1. Shall be competent to contract for life insurance upon his own life for his own benefit or for the
2793 benefit of his ascending or descending kindred, spouse, ~~brothers~~ or ~~sisters~~ siblings;

2794 2. May exercise every right, privilege and benefit provided by any life insurance policy on his own
2795 life, subject to the foregoing limitations as to designation of beneficiary; and

2796 3. Shall not be permitted to recover any premiums paid on the policy solely because he is a minor.

2797 B. If the minor resides with at least one of his parents, the application for the policy shall be
2798 approved in writing by the parent with whom he resides. No promissory note or other evidence of debt
2799 given by a minor in payment of any first year premium on a policy shall be validated by this section.

2800 C. Any such minor shall be competent to give a valid discharge for any benefit accruing or money
2801 payable under the policy, and to create liens on the policy in favor of the insurer issuing the policy for
2802 money borrowed or for unpaid premiums and interest on the policy. However, any beneficiary or
2803 beneficiaries named in the policy who are then at least fifteen years of age shall unite in the discharge or
2804 in the instrument creating the lien.

2805 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

2806 **§ 38.2-3438. Definitions.**

2807 As used this article, unless the context requires a different meaning:

2808 "Child" means ~~a son, daughter~~ any child, stepchild, adopted child, including a child placed for
2809 adoption, foster child or any other child eligible for coverage under the health benefit plan.

2810 "Covered benefits" or "benefits" means those health care services to which an individual is entitled
2811 under the terms of a health benefit plan.

2812 "Covered person" means a policyholder, subscriber, enrollee, participant, or other individual
2813 covered by a health benefit plan.

2814 "Dependent" means the spouse or child of an eligible employee, subject to the applicable terms of
2815 the policy, contract, or plan covering the eligible employee.

2816 "Emergency medical condition" means a medical condition manifesting itself by acute symptoms
2817 of sufficient severity, including severe pain, so that a prudent layperson, who possesses an average
2818 knowledge of health and medicine, could reasonably expect the absence of immediate medical attention
2819 to result in (i) serious jeopardy to the mental or physical health of the individual, (ii) danger of serious
2820 impairment to bodily functions, (iii) serious dysfunction of any bodily organ or part, or (iv) in the case of
2821 a pregnant woman, serious jeopardy to the health of the fetus.

2822 "Emergency services" means with respect to an emergency medical condition: (i) a medical
2823 screening examination as required under § 1867 of the Social Security Act (42 U.S.C. § 1395dd) that is
2824 within the capability of the emergency department of a hospital, including ancillary services routinely
2825 available to the emergency department to evaluate such emergency medical condition and (ii) such further
2826 medical examination and treatment, to the extent they are within the capabilities of the staff and facilities
2827 available at the hospital, as are required under § 1867 of the Social Security Act (42 U.S.C. § 1395dd
2828 (e)(3)) to stabilize the patient.

2829 "ERISA" means the Employee Retirement Income Security Act of 1974.

2830 "Essential health benefits" include the following general categories and the items and services
2831 covered within the categories in accordance with regulations issued pursuant to the PPACA: (i)
2832 ambulatory patient services; (ii) emergency services; (iii) hospitalization; (iv) laboratory services; (v)
2833 maternity and newborn care; (vi) mental health and substance abuse disorder services, including
2834 behavioral health treatment; (vii) pediatric services, including oral and vision care; (viii) prescription
2835 drugs; (ix) preventive and wellness services and chronic disease management; and (x) rehabilitative and
2836 habilitative services and devices.

2837 "Facility" means an institution providing health care related services or a health care setting,
2838 including but not limited to hospitals and other licensed inpatient centers; ambulatory surgical or treatment
2839 centers; skilled nursing centers; residential treatment centers; diagnostic, laboratory, and imaging centers;
2840 and rehabilitation and other therapeutic health settings.

2841 "Genetic information" means, with respect to an individual, information about: (i) the individual's
2842 genetic tests; (ii) the genetic tests of the individual's family members; (iii) the manifestation of a disease

2843 or disorder in family members of the individual; or (iv) any request for, or receipt of, genetic services, or
2844 participation in clinical research that includes genetic services, by the individual or any family member of
2845 the individual. "Genetic information" does not include information about the sex or age of any individual.
2846 As used in this definition, "family member" includes a first-degree, second-degree, third-degree, or fourth-
2847 degree relative of a covered person.

2848 "Genetic services" means (i) a genetic test; (ii) genetic counseling, including obtaining,
2849 interpreting, or assessing genetic information; or (iii) genetic education.

2850 "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, if
2851 the analysis detects genotypes, mutations, or chromosomal changes. "Genetic test" does not include an
2852 analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological
2853 condition.

2854 "Grandfathered plan" means coverage provided by a health carrier to (i) a small employer on
2855 March 23, 2010, or (ii) an individual that was enrolled on March 23, 2010, including any extension of
2856 coverage to an individual who becomes a dependent of a grandfathered enrollee after March 23, 2010, for
2857 as long as such plan maintains that status in accordance with federal law.

2858 "Group health insurance coverage" means health insurance coverage offered in connection with a
2859 group health benefit plan.

2860 "Group health plan" means an employee welfare benefit plan as defined in § 3(1) of ERISA to the
2861 extent that the plan provides medical care within the meaning of § 733(a) of ERISA to employees,
2862 including both current and former employees, or their dependents as defined under the terms of the plan
2863 directly or through insurance, reimbursement, or otherwise.

2864 "Health benefit plan" means a policy, contract, certificate, or agreement offered by a health carrier
2865 to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services. "Health
2866 benefit plan" includes short-term and catastrophic health insurance policies, and a policy that pays on a
2867 cost-incurred basis, except as otherwise specifically exempted in this definition. "Health benefit plan"
2868 does not include the "excepted benefits" as defined in § 38.2-3431.

2869 "Health care professional" means a physician or other health care practitioner licensed, accredited,
2870 or certified to perform specified health care services consistent with state law.

2871 "Health care provider" or "provider" means a health care professional or facility.

2872 "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a
2873 health condition, illness, injury, or disease.

2874 "Health carrier" means an entity subject to the insurance laws and regulations of the
2875 Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to
2876 provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an
2877 insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health
2878 services plan, or any other entity providing a plan of health insurance, health benefits, or health care
2879 services.

2880 "Health maintenance organization" means a person licensed pursuant to Chapter 43 (§ 38.2-4300
2881 et seq.).

2882 "Health status-related factor" means any of the following factors: health status; medical condition,
2883 including physical and mental illnesses; claims experience; receipt of health care services; medical history;
2884 genetic information; evidence of insurability, including conditions arising out of acts of domestic violence;
2885 disability; or any other health status-related factor as determined by federal regulation.

2886 "Individual health insurance coverage" means health insurance coverage offered to individuals in
2887 the individual market, which includes a health benefit plan provided to individuals through a trust
2888 arrangement, association, or other discretionary group that is not an employer plan, but does not include
2889 coverage defined as "excepted benefits" in § 38.2-3431 or short-term limited duration insurance. Student
2890 health insurance coverage shall be considered a type of individual health insurance coverage.

2891 "Individual market" means the market for health insurance coverage offered to individuals other
2892 than in connection with a group health plan.

2893 "Managed care plan" means a health benefit plan that either requires a covered person to use, or
2894 creates incentives, including financial incentives, for a covered person to use health care providers
2895 managed, owned, under contract with, or employed by the health carrier.

2896 "Network" means the group of participating providers providing services to a managed care plan.

2897 "Open enrollment" means, with respect to individual health insurance coverage, the period of time
2898 during which any individual has the opportunity to apply for coverage under a health benefit plan offered
2899 by a health carrier and must be accepted for coverage under the plan without regard to a preexisting
2900 condition exclusion.

2901 "Participating health care professional" means a health care professional who, under contract with
2902 the health carrier or with its contractor or subcontractor, has agreed to provide health care services to
2903 covered persons with an expectation of receiving payments, other than coinsurance, copayments, or
2904 deductibles, directly or indirectly from the health carrier.

2905 "PPACA" means the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by
2906 the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and as it may be further
2907 amended.

2908 "Preexisting condition exclusion" means a limitation or exclusion of benefits, including a denial
2909 of coverage, based on the fact that the condition was present before the effective date of coverage, or if
2910 the coverage is denied, the date of denial, whether or not any medical advice, diagnosis, care, or treatment
2911 was recommended or received before the effective date of coverage. "Preexisting condition exclusion"
2912 also includes a condition identified as a result of a pre-enrollment questionnaire or physical examination
2913 given to an individual, or review of medical records relating to the pre-enrollment period.

2914 "Premium" means all moneys paid by an employer, eligible employee, or covered person as a
2915 condition of coverage from a health carrier, including fees and other contributions associated with the
2916 health benefit plan.

2917 "Primary care health care professional" means a health care professional designated by a covered
2918 person to supervise, coordinate, or provide initial care or continuing care to the covered person and who
2919 may be required by the health carrier to initiate a referral for specialty care and maintain supervision of
2920 health care services rendered to the covered person.

2921 "Rescission" means a cancellation or discontinuance of coverage under a health benefit plan that
2922 has a retroactive effect. "Rescission" does not include:

2923 1. A cancellation or discontinuance of coverage under a health benefit plan if the cancellation or
2924 discontinuance of coverage has only a prospective effect, or the cancellation or discontinuance of coverage
2925 is effective retroactively to the extent it is attributable to a failure to timely pay required premiums or
2926 contributions towards the cost of coverage; or

2927 2. A cancellation or discontinuance of coverage when the health benefit plan covers active
2928 employees and, if applicable, dependents and those covered under continuation coverage provisions, if
2929 the employee pays no premiums for coverage after termination of employment and the cancellation or
2930 discontinuance of coverage is effective retroactively back to the date of termination of employment due
2931 to a delay in administrative recordkeeping.

2932 "Stabilize" means with respect to an emergency medical condition, to provide such medical
2933 treatment as may be necessary to assure, within reasonable medical probability, that no material
2934 deterioration of the condition is likely to result from or occur during the transfer of the individual from a
2935 facility, or, with respect to a pregnant woman, that the woman has delivered, including the placenta.

2936 "Student health insurance coverage" means a type of individual health insurance coverage that is
2937 provided pursuant to a written agreement between an institution of higher education, as defined by the
2938 Higher Education Act of 1965, and a health carrier and provided to students enrolled in that institution of
2939 higher education and their dependents, and that does not make health insurance coverage available other
2940 than in connection with enrollment as a student, or as a dependent of a student, in the institution of higher
2941 education, and does not condition eligibility for health insurance coverage on any health status-related
2942 factor related to a student or a dependent of the student.

2943 "Wellness program" means a program offered by an employer that is designed to promote health
2944 or prevent disease.

2945 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

2946 **§ 40.1-2. Definitions.**

2947 As used in this title, unless the context clearly requires otherwise, the following terms have the
2948 following meanings:

2949 "Board" means the Safety and Health Codes Board.

2950 "Business establishment" means any proprietorship, firm or corporation where people are
2951 employed, permitted or suffered to work, including agricultural employment on a farm.

2952 "Commission" means the Safety and Health Codes Board.

2953 "Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly
2954 indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

2955 "Department" means the Department of Labor and Industry.

2956 "Employ" shall include to permit or suffer to work.

2957 "Employee" means any person who, in consideration of wages, salaries or commissions, may be
2958 permitted, required or directed by any employer to engage in any employment directly or indirectly.

2959 "Employer" means an individual, partnership, association, corporation, legal representative,
2960 receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who
2961 employs another to work for wages, salaries, or on commission and shall include any similar entity acting
2962 directly or indirectly in the interest of an employer in relation to an employee.

2963 ~~"Female" or "woman" means a female 18 years of age or over.~~

2964 "Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators,
2965 conveyors, shafts, tunnels, including machinery being operated on farms in connection with the production
2966 or harvesting of agricultural products.

2967 **Drafting note: Amendment eliminates superfluous gender-specific terms; neither term is**
2968 **used in Title 40.1.**

2969 **§ 40.1-28.9. Definition of terms.**

2970 As used in this article:

2971 A. "Employer" includes any individual, partnership, association, corporation, business trust, or any
2972 person or groups of persons acting directly or indirectly in the interest of an employer in relation to an
2973 employee;

2974 B. "Employee" includes any individual employed by an employer, except the following:

2975 1. Any person employed as a farm laborer or farm employee;

- 2976 2. Any person employed in domestic service or in or about a private home or in an eleemosynary
2977 institution primarily supported by public funds;
- 2978 3. Any person engaged in the activities of an educational, charitable, religious or nonprofit
2979 organization where the relationship of employer-employee does not, in fact, exist, or where the services
2980 rendered to such organizations are on a voluntary basis;
- 2981 4. Newsboys, shoe-shine boys, caddies on golf courses, babysitters, ushers, doormen, concession
2982 attendants and cashiers in theaters;
- 2983 5. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and
2984 operators;
- 2985 6. Any person under the age of 18 in the employ of his ~~father, mother~~ parent or legal guardian;
- 2986 7. Any person confined in any penal or corrective institution of the State or any of its political
2987 subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral
2988 Health and Developmental Services;
- 2989 8. Any person employed by a boys' and/or girls' summer camp;
- 2990 9. Any person under the age of 16, regardless of by whom employed;
- 2991 10. Any person who normally works and is paid based on the amount of work done;
- 2992 11. [Repealed.]
- 2993 12. Any person whose employment is covered by the Fair Labor Standards Act of 1938 as
2994 amended;
- 2995 13. Any person whose earning capacity is impaired by physical deficiency, mental illness, or
2996 intellectual disability;
- 2997 14. Students participating in a bona fide educational program;
- 2998 15. Any person employed by an employer who does not have four or more persons employed at
2999 any one time; provided that ~~husbands, wives, sons, daughters~~ spouses, children, and parents of the
3000 employer shall not be counted in determining the number of persons employed;

3001 16. Any person who is less than 18 years of age and who is currently enrolled on a full-time basis
3002 in any secondary school, institution of higher education or trade school, provided the person is not
3003 employed more than 20 hours per week;

3004 16A. Any person of any age who is currently enrolled on a full-time basis in any secondary school,
3005 institution of higher education or trade school and is in a work-study program or its equivalent at the
3006 institution at which he-~~or she~~ is enrolled as a student;

3007 17. Any person who is less than 18 years of age and who is under the jurisdiction and direction of
3008 a juvenile and domestic relations district court.

3009 C. "Wages" means legal tender of the United States or checks or drafts on banks negotiable into
3010 cash on demand or upon acceptance at full value; provided, wages may include the reasonable cost to the
3011 employer of furnishing meals and for lodging to an employee, if such board or lodging is customarily
3012 furnished by the employer, and used by the employee.

3013 D. In determining the wage of a tipped employee, the amount paid such employee by his employer
3014 shall be deemed to be increased on account of tips by an amount determined by the employer, except in
3015 the case of an employee who establishes by clear and convincing evidence that the actual amount of tips
3016 received by him was less than the amount determined by the employer. In such case, the amount paid such
3017 employee by his employer shall be deemed to have been increased by such lesser amount.

3018 **Drafting note: Amendments replace gender-specific terms with gender neutral ones and**
3019 **make a technical change consistent with Va. Code § 1-216.**

3020 **§ 40.1-122. Approval of agreement by Commissioner; signing.**

3021 No apprentice agreement under this chapter shall be effective until approved by the Commissioner.
3022 Every apprentice agreement shall be signed by the employer, or by an association of employers or an
3023 organization of employees as provided in § 40.1-124, and by the apprentice, and, if the apprentice is a
3024 minor, by the minor's ~~father or mother~~ parent, provided, that if both ~~father and mother~~ parents be dead or
3025 legally incapable of giving consent or have abandoned their children, then by the guardian of the minor.

3026 **Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

3027 **§ 46.2-334.01. Licenses issued to persons less than 18 years old subject to certain restrictions.**

3028 A. Any learner's permit or driver's license issued to any person less than 18 years old shall be
3029 subject to the following:

3030 1. Notwithstanding the provisions of § 46.2-498, whenever the driving record of a person less than
3031 19 years old shows that he has been convicted of committing, when he was less than 18 years old, (i) an
3032 offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.)
3033 or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.)
3034 of Chapter 10, the Commissioner shall direct such person to attend a driver improvement clinic. No safe
3035 driving points shall be awarded for such clinic attendance, nor shall any safe driving points be awarded
3036 for voluntary or court-assigned clinic attendance. Such person's parent, guardian, legal custodian, or other
3037 person standing in loco parentis may attend such clinic and receive a reduction in demerit points and/or
3038 an award of safe driving points pursuant to § 46.2-498. The provisions of this subdivision shall not be
3039 construed to prohibit awarding of safe driving points to a person less than 18 years old who attends and
3040 successfully completes a driver improvement clinic without having been directed to do so by the
3041 Commissioner or required to do so by a court.

3042 2. If any person less than 19 years old is convicted a second time of committing, when he was less
3043 than 18 years old, (i) an offense for which demerit points have been assessed or are assessable under
3044 Article 19 (§ 46.2-489 et seq.) or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or
3045 Article 13 (§ 46.2-1095 et seq.) of Chapter 10, the Commissioner shall suspend such person's driver's
3046 license or privilege to operate a motor vehicle for 90 days. Such suspension shall be consecutive to, and
3047 not concurrent with, any other period of license suspension, revocation, or denial. Any person who has
3048 had his driver's license or privilege to operate a motor vehicle suspended in accordance with this
3049 subdivision may petition the juvenile and domestic relations district court of his residence for a restricted
3050 license to authorize such person to drive a motor vehicle in the Commonwealth to and from his home, his
3051 place of employment, or an institution of higher education where he is enrolled, provided there is no other
3052 means of transportation by which such person may travel between his home and his place of employment
3053 or the institution of higher education where he is enrolled. On such petition the court may, in its discretion,
3054 authorize the issuance of a restricted license for a period not to exceed the term of the suspension of the

3055 person's license or privilege to operate a motor vehicle in the Commonwealth. Such restricted license shall
3056 be valid solely for operation of a motor vehicle between such person's home and his place of employment
3057 or the institution of higher education where he is enrolled.

3058 3. If any person is convicted a third time of committing, when he was less than 18 years old, (i) an
3059 offense for which demerit points have been assessed or are assessable under Article 19 (§ 46.2-489 et seq.)
3060 or (ii) a violation of any provision of Article 12 (§ 46.2-1091 et seq.) or Article 13 (§ 46.2-1095 et seq.)
3061 of Chapter 10, the Commissioner shall revoke such person's driver's license or privilege to operate a motor
3062 vehicle for one year or until such person reaches the age of 18 years, whichever is longer. Such revocation
3063 shall be consecutive to, and not concurrent with, any other period of license suspension, revocation, or
3064 denial.

3065 4. In no event shall any person subject to the provisions of this section be subject to the suspension
3066 or revocation provisions of subdivision 2 or 3 for multiple convictions arising out of the same transaction
3067 or occurrence.

3068 B. The initial license issued to any person younger than 18 years of age shall be deemed a
3069 provisional driver's license. Until the holder is 18 years old, a provisional driver's license shall not
3070 authorize its holder to operate a motor vehicle with more than one passenger who is less than 21 years old.
3071 After the first year the provisional license is issued, the holder may operate a motor vehicle with up to
3072 three passengers who are less than 21 years old (i) when the holder is driving to or from a school-sponsored
3073 activity, (ii) when a licensed driver who is at least 21 years old is occupying the seat beside the driver, or
3074 (iii) in cases of emergency. These passenger limitations, however, shall not apply to members of the
3075 driver's family or household. For the purposes of this subsection, "a member of the driver's family or
3076 household" means any of the following: (a) the driver's spouse, children, stepchildren, ~~brothers, sisters,~~
3077 ~~half-brothers, half-sisters~~ siblings, half-siblings, first cousins, and any individual who has a child in
3078 common with the driver, whether or not they reside in the same home with the driver; (b) the driver's
3079 ~~brothers-in-law and sisters-in-law~~ siblings-in-law who reside in the same home with the driver; and (c)
3080 any individual who cohabits with the driver, and any children of such individual residing in the same home
3081 with the driver.

3082 C. The holder of a provisional driver's license shall not operate a motor vehicle on the highways
3083 of the Commonwealth between the hours of midnight and 4:00 a.m. except when driving (i) to or from a
3084 place of business where he is employed; (ii) to or from an activity that is supervised by an adult and is
3085 sponsored by a school or by a civic, religious, or public organization; (iii) accompanied by a parent, a
3086 person acting in loco parentis, or by a spouse who is 18 years old or older, provided that such person
3087 accompanying the driver is actually occupying a seat beside the driver and is lawfully permitted to operate
3088 a motor vehicle at the time; or (iv) in cases of emergency, including response by volunteer firefighters and
3089 volunteer emergency medical services personnel to emergency calls.

3090 C1. Except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of
3091 a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth
3092 while using any cellular telephone or any other wireless telecommunications device, regardless of whether
3093 such device is or is not hand-held.

3094 D. The provisional driver's license restrictions in subsections B, C, and C1 shall expire on the
3095 holder's eighteenth birthday. A violation of the provisional driver's license restrictions in subsection B, C,
3096 or C1 shall constitute a traffic infraction. For a second or subsequent violation of the provisional driver's
3097 license restrictions in subsection B, C, or C1, in addition to any other penalties that may be imposed
3098 pursuant to § 16.1-278.10, the court may suspend the juvenile's privilege to drive for a period not to exceed
3099 six months.

3100 E. A violation of subsection B, C, or C1 shall not constitute negligence, be considered in mitigation
3101 of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any
3102 action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor
3103 vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any
3104 such civil action.

3105 F. No citation for a violation of this section shall be issued unless the officer issuing such citation
3106 has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of
3107 this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or
3108 any criminal statute.

3109 **Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

3110 **§ 46.2-335. Learner's permits; fees; certification required.**

3111 A. The Department, on receiving from any Virginia resident over the age of 15 years and six
3112 months an application for a learner's permit or motorcycle learner's permit, may, subject to the applicant's
3113 satisfactory documentation of meeting the requirements of this chapter and successful completion of the
3114 written or automated knowledge and vision examinations and, in the case of a motorcycle learner's permit
3115 applicant, the automated motorcycle test, issue a permit entitling the applicant, while having the permit in
3116 his immediate possession, to drive a motor vehicle or, if the application is made for a motorcycle learner's
3117 permit, a motorcycle, on the highways, when accompanied by any licensed driver 21 years of age or older
3118 or by his parent or legal guardian, or by a ~~brother, sister, half brother, half sister, step brother,~~ sibling,
3119 half-sibling, or ~~step-sister~~ step-sibling 18 years of age or older. The accompanying person shall be (i) alert,
3120 able to assist the driver, and actually occupying a seat beside the driver or, for motorcycle instruction,
3121 providing immediate supervision from a separate accompanying motor vehicle and (ii) lawfully permitted
3122 to operate the motor vehicle or accompanying motorcycle at that time.

3123 The Department shall not, however, issue a learner's permit or motorcycle learner's permit to any
3124 minor applicant required to provide evidence of compliance with the compulsory school attendance law
3125 set forth in Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1, unless such applicant is in good
3126 academic standing or, if not in such standing or submitting evidence thereof, whose parent or guardian,
3127 having custody of such minor, provides written authorization for the minor to obtain a learner's permit or
3128 motorcycle learner's permit, which written authorization shall be obtained on forms provided by the
3129 Department and indicating the Commonwealth's interest in the good academic standing and regular school
3130 attendance of such minors. Any minor providing proper evidence of the solemnization of his marriage or
3131 a certified copy of a court order of emancipation shall not be required to provide the certification of good
3132 academic standing or any written authorization from his parent or guardian to obtain a learner's permit or
3133 motorcycle learner's permit.

3134 Such permit, except a motorcycle learner's permit, shall be valid until the holder thereof either is
3135 issued a driver's license as provided for in this chapter or no longer meets the qualifications for issuance

3136 of a learner's permit as provided in this section. Motorcycle learner's permits shall be valid for 12 months.
3137 When a motorcycle learner's permit expires, the permittee may, upon submission of an application,
3138 payment of the application fee, and successful completion of the examinations, be issued another
3139 motorcycle learner's permit valid for 12 months.

3140 Any person 25 years of age or older who is eligible to receive an operator's license in Virginia, but
3141 who is required, pursuant to § 46.2-324.1, to be issued a learner's permit for 60 days prior to his first
3142 behind-the-wheel exam, may be issued such learner's permit even though restrictions on his driving
3143 privilege have been ordered by a court. Any such learner's permit shall be subject to the restrictions ordered
3144 by the court.

3145 B. No driver's license shall be issued to any such person who is less than 18 years old unless, while
3146 holding a learner's permit, he has driven a motor vehicle for at least 45 hours, at least 15 of which were
3147 after sunset, as certified by his parent, foster parent, or legal guardian unless the person is married or
3148 otherwise emancipated. Such certification shall be on a form provided by the Commissioner and shall
3149 contain the following statement:

3150 "It is illegal for anyone to give false information in connection with obtaining a driver's license.
3151 This certification is considered part of the driver's license application, and anyone who certifies to a false
3152 statement may be prosecuted. I certify that the statements made and the information submitted by me
3153 regarding this certification are true and correct."

3154 Such form shall also include the driver's license or Department of Motor Vehicles-issued
3155 identification card number of the person making the certification.

3156 C. No learner's permit shall authorize its holder to operate a motor vehicle with more than one
3157 passenger who is less than 21 years old, except when participating in a driver education program approved
3158 by the Department of Education or a course offered by a driver training school licensed by the Department.
3159 This passenger limitation, however, shall not apply to the members of the driver's family or household as
3160 defined in subsection B of § 46.2-334.01.

3161 D. No learner's permit shall authorize its holder to operate a motor vehicle between midnight and
3162 four o'clock a.m.

3163 E. Except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a
3164 learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any
3165 cellular telephone or any other wireless telecommunications device, regardless of whether or not such
3166 device is handheld. No citation for a violation of this subsection shall be issued unless the officer issuing
3167 such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other
3168 provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor
3169 vehicle or any criminal statute.

3170 F. A violation of subsection C, D, or E shall not constitute negligence, be considered in mitigation
3171 of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any
3172 action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor
3173 vehicle, nor shall anything in this subsection change any existing law, rule, or procedure pertaining to any
3174 such civil action.

3175 G. The provisions of §§ 46.2-323 and 46.2-334 relating to evidence and certification of Virginia
3176 residence and, in the case of persons of school age, compliance with the compulsory school attendance
3177 law shall apply, mutatis mutandis, to applications for learner's permits and motorcycle learner's permits
3178 issued under this section.

3179 H. For persons qualifying for a driver's license through driver education courses approved by the
3180 Department of Education or courses offered by driver training schools licensed by the Department, the
3181 application for the learner's permit shall be used as the application for the driver's license.

3182 I. The Department shall charge a fee of \$3 for each learner's permit and motorcycle learner's permit
3183 issued under this section. Fees for issuance of learner's permits shall be paid into the driver education fund
3184 of the state treasury; fees for issuance of motorcycle learner's permits shall be paid into the state treasury
3185 and credited to the Motorcycle Rider Safety Training Program Fund created pursuant to § 46.2-1191. It
3186 shall be unlawful for any person, after having received a learner's permit, to drive a motor vehicle without
3187 being accompanied by a licensed driver as provided in the foregoing provisions of this section; however,
3188 a learner's permit other than a motorcycle learner's permit, accompanied by documentation verifying that
3189 the driver is at least 16 years and three months old and has successfully completed an approved driver's

3190 education course, signed by the minor's parent, guardian, legal custodian or other person standing in loco
3191 parentis, shall constitute a temporary driver's license for the purpose of driving unaccompanied by a
3192 licensed driver 18 years of age or older, if all other requirements of this chapter have been met. Such
3193 temporary driver's license shall only be valid until the driver has received his permanent license pursuant
3194 to § 46.2-336.

3195 J. Nothing in this section shall be construed to permit the issuance of a learner's permit entitling a
3196 person to drive a commercial motor vehicle, except as provided by the Virginia Commercial Driver's
3197 License Act (§ 46.2-341.1 et seq.).

3198 K. The following limitations shall apply to operation of motorcycles by all persons holding
3199 motorcycle learner's permits:

3200 1. The operator shall wear an approved safety helmet as provided in § 46.2-910.

3201 2. Operation shall be under the immediate supervision of a person licensed to operate a motorcycle
3202 who is 21 years of age or older.

3203 3. No person other than the operator shall occupy the motorcycle.

3204 L. Any violation of this section shall be punishable as a Class 2 misdemeanor.

3205 **Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

3206 **§ 46.2-1500. Definitions.**

3207 As used in this chapter, unless the context requires a different meaning:

3208 "Affiliate" means any entity in which a manufacturer, factory branch, distributor, or distributor
3209 branch has voting control or owns at least 51 percent of the ownership equity, or any entity in which
3210 another entity has voting control or owns at least 51 percent of the ownership equity and also has voting
3211 control and owns at least 51 percent of the ownership of a manufacturer, factory branch, distributor, or
3212 distributor branch. An entity that provides vehicle purchase or lease financing that uses the name of the
3213 manufacturer or distributor, or the name of any line make of the manufacturer or distributor, in the name
3214 of the entity under which it transacts business with a consumer, other than in the name of an individual
3215 product offered by the entity, shall be considered an "affiliate."

3216 "Board" means the Motor Vehicle Dealer Board.

3217 "Camping trailer" means a recreational vehicle constructed with collapsible partial side walls that
3218 fold for towing by a consumer-owned tow vehicle and unfold at the campsite to provide temporary living
3219 quarters for recreational, camping, or travel use.

3220 "Certificate of origin" means the document provided by the manufacturer of a new motor vehicle,
3221 or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor,
3222 its franchised motor vehicle dealers, and the original purchaser not for resale.

3223 "Dealer-operator" means the individual who works at the established place of business of a dealer
3224 and who is responsible for and in charge of day-to-day operations of that place of business.

3225 "Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than
3226 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer
3227 personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing,
3228 or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the
3229 provisions of subsection D of § 46.2-1530.

3230 "Distributor" means a person who is licensed by the Department under this chapter and who sells
3231 or distributes new motor vehicles pursuant to a written agreement with the manufacturer to franchised
3232 motor vehicle dealers in the Commonwealth.

3233 "Distributor branch" means a branch office licensed by the Department under this chapter and
3234 maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or
3235 supervising, in whole or in part, its representatives in the Commonwealth.

3236 "Distributor representative" means a person who is licensed by the Department under this chapter
3237 and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale
3238 of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the
3239 Commonwealth.

3240 "Factory branch" means a branch office maintained by a person for the sale of motor vehicles to
3241 distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in
3242 whole or in part, its representatives in the Commonwealth.

3243 "Factory representative" means a person who is licensed by the Department under this chapter and
3244 employed by a person who manufactures or assembles motor vehicles or by a factory branch for the
3245 purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers,
3246 prospective dealers, or representatives in the Commonwealth.

3247 "Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or
3248 otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise
3249 retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the
3250 manufacturer or distributor, or its agents.

3251 "Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child,
3252 spouse of a grandchild, ~~brother, sister~~ sibling, or parent of the dealer or owner or (ii) has been employed
3253 continuously by the dealer for at least five years.

3254 "Franchise" means a written contract or agreement between two or more persons whereby one
3255 person, the franchisee, is granted the right to engage in the business of offering and selling, offering and
3256 delivering pursuant to a lease, servicing, or offering, selling, and servicing new motor vehicles of a
3257 particular line-make or late model or used motor vehicles of a particular line-make manufactured or
3258 distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business
3259 is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial
3260 symbol designating the franchisor, the motor vehicle or its manufacturer or distributor. "Franchise"
3261 includes any severable part or parts of a franchise agreement which separately provides for selling and
3262 servicing different line-makes of the franchisor.

3263 "Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor
3264 vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or
3265 distributor that has a franchise agreement with a manufacturer or distributor.

3266 "Franchised motor vehicle dealer" or "franchised dealer" means a dealer in new motor vehicles
3267 that has a franchise agreement with a manufacturer or distributor of new motor vehicles to sell new motor
3268 vehicles or to sell used motor vehicles under the trademark of a manufacturer or distributor regardless of
3269 the age of the motor vehicles.

3270 "Fund" means the Motor Vehicle Dealer Board Fund.

3271 "Independent motor vehicle dealer" means a dealer in used motor vehicles.

3272 "Late model motor vehicle" means a motor vehicle of the current model year and the immediately
3273 preceding model year.

3274 "Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name
3275 plate marketed by the manufacturer or distributor. The line-make of a motorcycle manufacturer, factory
3276 branch, distributor, or distributor branch includes every brand of all-terrain vehicle, autocytle, and off-
3277 road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or
3278 distributor.

3279 "Manufactured home dealer" means any person licensed as a manufactured home dealer under
3280 Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

3281 "Manufacturer" means a person who is licensed by the Department under this chapter and engaged
3282 in the business of constructing or assembling new motor vehicles and, in the case of trucks, recreational
3283 vehicles, and motor homes, also means a person engaged in the business of manufacturing engines,
3284 transmissions, power trains, or rear axles, when such engines, transmissions, power trains, or rear axles
3285 are not warranted by the final manufacturer or assembler of the truck, recreational vehicle, or motor home.

3286 "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in
3287 contact with the ground, except any vehicle within the term "farm tractor" or "moped" as defined in §
3288 46.2-100. Except as otherwise provided, for the purposes of this chapter, all-terrain vehicles, autocyycles,
3289 and off-road motorcycles are deemed to be motorcycles.

3290 "Motor home" means a motorized recreational vehicle designed to provide temporary living
3291 quarters for recreational, camping, or travel use that contains at least four of the following permanently
3292 installed independent life support systems that meet the National Fire Protection Association standards
3293 for recreational vehicles: (i) a cooking facility with an onboard fuel source; (ii) a potable water supply
3294 system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;
3295 (iii) a toilet with exterior evacuation; (iv) a gas or electric refrigerator; (v) a heating or air conditioning

3296 system with an onboard power or fuel source separate from the vehicle engine; or (vi) a 110-125 volt
3297 electric power supply.

3298 "Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter,
3299 "motor vehicle" does not include (i) manufactured homes, sales of which are regulated under Chapter 4.2
3300 (§ 36-85.16 et seq.) of Title 36; (ii) nonrepairable vehicles, as defined in § 46.2-1600; (iii) salvage vehicles,
3301 as defined in § 46.2-1600; or (iv) mobile cranes that exceed the size or weight limitations as set forth in §
3302 46.2-1105, 46.2-1110, or 46.2-1113 or Article 17 (§ 46.2-1122 et seq.) of Chapter 10.

3303 "Motor vehicle dealer" or "dealer" means any person who:

3304 1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on
3305 conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit
3306 or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new
3307 and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by
3308 him; or

3309 2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor
3310 vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or

3311 3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles
3312 within any 12 consecutive months.

3313 For the purposes of Article 7.2 (§ 46.2-1573.2 et seq.), "dealer" means recreational vehicle dealer.

3314 For the purposes of Article 7.3 (§ 46.2-1573.13 et seq.), "dealer" means trailer dealer and watercraft trailer
3315 dealer. For the purposes of Article 7.4 (§ 46.2-1573.25 et seq.), "dealer" means motorcycle dealer.

3316 "Motor vehicle dealer" or "dealer" does not include:

3317 1. Receivers, trustees, administrators, executors, guardians, conservators or other persons
3318 appointed by or acting under judgment or order of any court or their employees when engaged in the
3319 specific performance of their duties as employees.

3320 2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3321 3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles
3322 to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for

3323 their own use and actually so used, when the vehicles have been so acquired and used in good faith and
3324 not for the purpose of avoiding the provisions of this chapter.

3325 4. Persons dealing solely in the sale and distribution of funeral vehicles, including motor vehicles
3326 adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ 46.2-
3327 1519, 46.2-1520, and 46.2-1548.

3328 5. Any financial institution chartered or authorized to do business under the laws of the
3329 Commonwealth or the United States which may have received title to a motor vehicle in the normal course
3330 of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that
3331 institution occurring as a result of any loan secured by a lien on the vehicle.

3332 6. An employee of an organization arranging for the purchase or lease by the organization of
3333 vehicles for use in the organization's business.

3334 7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in
3335 conjunction with the sale of the parcel of land on which the manufactured home or similar vehicle is
3336 located.

3337 8. Any person who permits the operation of a motor vehicle show or permits the display of motor
3338 vehicles for sale by any motor vehicle dealer licensed under this chapter.

3339 9. An insurance company authorized to do business in the Commonwealth that sells or disposes of
3340 vehicles under a contract with its insured in the regular course of business.

3341 10. Any publication, broadcast, or other communications media when engaged in the business of
3342 advertising, but not otherwise arranging for the sale of vehicles owned by others.

3343 11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

3344 12. Any credit union authorized to do business in Virginia, provided the credit union does not
3345 receive a commission, money, or other thing of value directly from a motor vehicle dealer.

3346 13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson
3347 under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

3348 14. The State Department of Social Services or local departments of social services.

3349 15. Any person dealing solely in the sale and distribution of utility or cargo trailers that have
3350 unloaded weights of 3,000 pounds or less; however, this exemption shall not exempt any person who deals
3351 in stock trailers or watercraft trailers.

3352 For the purposes of Article 7 (§ 46.2-1566 et seq.), "dealer" does not include recreational vehicle
3353 dealers, trailer dealers, watercraft trailer dealers, or motorcycle dealers.

3354 "Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee
3355 by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a
3356 commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons
3357 employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person,
3358 compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a
3359 customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a
3360 motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person
3361 who is an independent contractor as defined by the United States Internal Revenue Code shall be deemed
3362 not to be a motor vehicle salesperson.

3363 "Motor vehicle show" means a display of motor vehicles to the general public at a location other
3364 than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or
3365 exchange during or as part of the display.

3366 "New motor vehicle" means any vehicle, excluding trailers, that is in the possession of the
3367 manufacturer, factory branch, distributor, distributor branch, or motor vehicle dealer and for which an
3368 original title has not been issued by the Department or by the issuing agency of any other state and has
3369 less than 7,500 miles accumulated on its odometer.

3370 "New trailer" means any trailer that (i) has not been previously sold except in good faith for the
3371 purpose of resale; (ii) has not been used as a rental, driver education, or demonstration trailer or for the
3372 personal or business transportation of the manufacturer, distributor, dealer, or any of its employees; (iii)
3373 has not been used except for limited use necessary in moving or road testing the trailer prior to delivery
3374 to a customer; (iv) is transferred by a certificate of origin; and (v) has the manufacturer's certification that
3375 it conforms to all applicable federal trailer safety and emission standards. Notwithstanding clauses (i) and

3376 (iii), a trailer that has been previously sold but not titled shall be deemed a new trailer if it meets the
3377 requirements of clauses (ii), (iv), and (v).

3378 "Original license" means a motor vehicle dealer license issued to an applicant who has never been
3379 licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been
3380 expired for more than 30 days.

3381 "Recreational vehicle" or "RV" means a vehicle that (i) is either self-propelled or towed by a
3382 consumer-owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for
3383 recreational, camping, or travel use; and (iii) complies with all applicable federal vehicle regulations and
3384 does not require a special movement permit to legally use the highways. Recreational vehicle includes
3385 motor homes, travel trailers, and camping trailers.

3386 "Relevant market area" means as follows:

3387 1. For motor vehicle dealers except motorcycle dealers, in metropolitan localities the relevant
3388 market area shall be a circular area around an existing franchised dealer with a population of 250,000, not
3389 to exceed a radius of 10 miles, but in no case less than seven miles.

3390 2. For motor vehicle dealers except motorcycle dealers, if the population in a circular area within
3391 a radius of 10 miles around an existing franchised dealer is less than 250,000, but the population in an
3392 area within a radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant
3393 market area shall be that circular area within the 15-mile radius.

3394 3. For motor vehicle dealers except motorcycle dealers, in all other cases the relevant market area
3395 shall be a circular area within a radius of 20 miles around an existing franchised dealer or the area of
3396 responsibility defined in the franchise, whichever is greater. In any case where the franchise agreement is
3397 silent as to area of responsibility, the relevant market area shall be the greater of a circular area within a
3398 radius of 20 miles around an existing franchised dealer or that area in which the franchisor otherwise
3399 requires the franchisee to make significant retail sales or sales efforts.

3400 4. For motorcycle dealers, the relevant market area shall be a circular area within a radius of 20
3401 miles around an existing franchised dealer location with a population of one million or more. If the
3402 population within a 20-mile radius is less than one million but greater than 750,000, the relevant market

3403 area shall be a circular area within a radius of 30 miles. If the population within a 30-mile radius is less
3404 than 750,000, the relevant market area shall be a circular area within a radius of 40 miles.

3405 Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles
3406 with gross vehicle weight ratings of 26,000 pounds or greater, excluding recreational vehicles, the relevant
3407 market area with respect to the dealer's franchise for all such vehicles shall be a circular area around an
3408 existing franchised dealer with a radius of 25 miles, except where the population in such circular area is
3409 less than 250,000, in which case the relevant market area shall be a circular area around an existing
3410 franchised dealer with a radius of 50 miles, or the area of responsibility defined in the franchise, whichever
3411 is greater.

3412 In determining population for relevant market areas, the most recent census by the U.S. Bureau of
3413 the Census or the most recent population update, either from the National Planning Data Corporation or
3414 other similar recognized source, shall be accumulated for all census tracts either wholly or partially within
3415 the relevant market area.

3416 "Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and
3417 not for resale, in which the price of the vehicle is payable in one or more installments and in which the
3418 seller has either retained title to the goods or has taken or retained a security interest in the goods under
3419 form of contract designated either as a security agreement, conditional sale, bailment lease, chattel
3420 mortgage, or otherwise.

3421 "Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or
3422 otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

3423 "Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than
3424 to consumers; a sale to one who intends to resell.

3425 "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with
3426 another motor vehicle that some part of its own weight and that of its own load rests on or is carried by
3427 another vehicle.

3428 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles
3429 and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached
3430 thereto.

3431 "Trailer" means every vehicle without motive power designed for carrying property or passengers
3432 wholly on its own structure and for being drawn by another motor vehicle, including semitrailers but not
3433 manufactured homes, watercraft trailers, camping trailers, or travel trailers.

3434 "Travel trailer" means a vehicle designed to provide temporary living quarters for recreational,
3435 camping, or travel use of such size or weight so as not to require a special highway movement permit
3436 when towed by a consumer-owned tow vehicle.

3437 "Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

3438 "Watercraft trailer" means any new or used trailer specifically designed to carry a watercraft or a
3439 motorboat and purchased, sold, or offered for sale by a watercraft dealer licensed under Chapter 8 (§ 29.1-
3440 800 et seq.) of Title 29.1.

3441 "Watercraft trailer dealer" means any watercraft dealer licensed under Chapter 8 (§ 29.1-800 et
3442 seq.) of Title 29.1.

3443 "Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

3444 **Drafting note: Amendment replaces gender-specific terms with gender neutral ones.**

3445 **§ 51.1-500. Definitions.**

3446 As used in this chapter, unless the context requires a different meaning:

3447 "Accident" means an accident covered under the group insurance coverage purchased by the
3448 Board.

3449 "Board" means the Board of Trustees of the Virginia Retirement System.

3450 "Company" means insurance company.

3451 "Contributor" means the same as that term is defined in § 23.1-700.

3452 "Dependent child" means (i) the insured employee's unmarried natural or legally adopted children
3453 who are not self-supporting; (ii) the insured employee's unmarried stepchildren living full time with the
3454 insured employee in a parent-child relationship and who can be claimed as a dependent on the insured

3455 employee's federal income tax return; (iii) any other children if they are in the insured employee's court-
3456 ordered custody; or (iv) other dependent children of the employee's family who are eligible for coverage
3457 under the family membership program offered under policies and procedures of the Department of Human
3458 Resource Management governing health insurance plans administered pursuant to § 2.2-1204 or § 2.2-
3459 2818.

3460 "Dismemberment" means a dismemberment covered under the group insurance coverage
3461 purchased by the Board.

3462 "Felonious assault" means a physical assault (i) by another person resulting in bodily harm to an
3463 insured employee; (ii) that takes place while such employee is performing his customary duties at the
3464 employer's normal place of business or at other places the employer's business requires him to travel; (iii)
3465 that involves the use of force or violence with the intent to cause harm; and (iv) that is a felony or
3466 misdemeanor under applicable law.

3467 "Group insurance program" or "insurance program" means the plan covered under the policy
3468 purchased by the Board which provides group life, accidental death, and dismemberment insurance
3469 coverage for employees.

3470 "Immediate family member" means the insured employee's spouse, children, parents,
3471 grandparents, grandchildren, ~~brothers and sisters~~ siblings and their spouses.

3472 "Qualifying child" means a dependent child less than eighteen years of age, or if eighteen years of
3473 age or older a dependent child enrolled in high school.

3474 "Retirement System" means the Virginia Retirement System.

3475 "Safety restraint system" means a properly installed seatbelt, lap and shoulder restraint or other
3476 restraint approved by the National Highway Traffic Safety Administration or any successor governmental
3477 agency. The term excludes an air bag safety system.

3478 In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this
3479 chapter except as otherwise provided.

3480 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

3481 **§ 53.1-133.10. (See Editor's note) Governor to execute; form of compact.**

3482 The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any
3483 other state or states legally joining therein a compact that shall be in form substantially as follows:

3484 The compacting states solemnly agree that:

3485 ARTICLE I. The party states, desiring by common action to efficiently utilize and provide
3486 emergency medical, dental, and psychiatric care for prisoners of local correctional facilities, declare that
3487 it is the policy of each of the party states to cooperate with one another to serve the best interests of the
3488 prisoners and of the state and local governments in the convenient and economical provision of these
3489 services. The purpose of this compact is to provide for the mutual recognition of the control and authority
3490 over prisoners during transport to and from medical, dental, and psychiatric facilities across state
3491 boundaries.

3492 ARTICLE II. As used in this compact, unless the context clearly requires otherwise:

3493 1. "State" means a state of the United States, the United States of America, a territory or possession
3494 of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

3495 2. "Sending state" means a state party to this compact in which a prisoner in need of medical,
3496 dental, or psychiatric services is incarcerated.

3497 3. "Receiving state" means a state party to this compact in which is located a medical, dental, or
3498 psychiatric facility.

3499 4. "Prisoner" means ~~a male or female~~ an offender who is committed under sentence to or confined
3500 in a local correctional facility.

3501 5. "Local correctional facility" means any penal or correctional facility or any jail, regional jail,
3502 jail farm, or other place used for the detention or incarceration of adult offenders that is owned, maintained,
3503 or operated by any political subdivision or combination of subdivisions of a state or a local government
3504 of a state.

3505 ARTICLE III. Each party state agrees to extend all necessary authority to law-enforcement or
3506 corrections officers from a sending state while such officers have in their custody a prisoner for the
3507 purpose of escorting the prisoner to and from a medical, dental, or psychiatric facility located in the
3508 receiving state.

3509 ARTICLE IV. This compact shall enter into force and become effective and binding upon the
3510 states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter
3511 into force and become effective and binding as to any other of said states upon similar action by such
3512 state.

3513 ARTICLE V. This compact shall continue in force and remain binding upon a party state until the
3514 party state has enacted a statute repealing the same and providing for the sending of formal written notice
3515 of withdrawal from the compact to the appropriate official of all other party states. No actual withdrawal
3516 shall take effect until one year after the notice provided in said statute has been sent. Such withdrawal
3517 shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date
3518 of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory,
3519 at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

3520 ARTICLE VI. The provisions of this compact shall be liberally construed and shall be severable.
3521 If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution
3522 of any participating state or of the United States or the applicability thereof to any government, agency,
3523 person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability
3524 thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact
3525 is held contrary to the constitution of any state participating therein, the compact shall remain in full force
3526 and effect as to the remaining states and in full force and effect as to the state affected as to all severable
3527 matters.

3528 **Drafting note: Amendment eliminates superfluous gender-specific terms. Currently, no**
3529 **other jurisdictions have entered into this compact. Regardless, non-substantive differences in the**
3530 **text of an interstate compact do not affect the validity or enforcement of the terms of the compact.**
3531 **As the opening paragraph of this section provides, the compact is effective among jurisdictions that**
3532 **adopt its provisions "in form substantially" as adopted in Virginia. *See Delgado v. Commonwealth,***
3533 **16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts "constitute an**
3534 **agreement between the Commonwealth of Virginia and other states, territories and the United**
3535 **States, who join in a compact by enacting substantially the same provisions"). *Cf. Sassoon v.***

3536 *Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the Interstate
3537 Agreement on Detainers under federal and Georgia law contained differences, but were
3538 "substantively identical").

3539 § 53.1-216. Governor to execute; form of compact.

3540 The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any
3541 other state or states legally joining therein a compact which shall be in form substantially as follows:

3542 The contracting states solemnly agree that:

3543 ARTICLE I.

3544 The party states, desiring by common action to fully utilize and improve their institutional facilities
3545 and provide adequate programs for the confinement, treatment and rehabilitation of various types of
3546 offenders, declare that it is the policy of each of the party states to provide such facilities and programs on
3547 a basis of cooperation with one another, and with the Federal Government, thereby serving the best interest
3548 of such offenders and of society and effecting economies in capital expenditures and operational costs.
3549 The purpose of this compact is to provide for the mutual development and execution of such programs of
3550 cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use
3551 of human and material resources.

3552 ARTICLE II.

3553 As used in this compact, unless the context clearly requires otherwise:

3554 a. "State" means a state of the United States; the United States of America; a territory or possession
3555 of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

3556 b. "Sending state" means a state party to this compact in which conviction or court commitment
3557 was had.

3558 c. "Receiving state" means a state party to this compact to which an inmate is sent for confinement
3559 other than a state in which conviction or court commitment was had.

3560 d. "Inmate" means ~~a male or female~~ an offender who is committed, under sentence to or confined
3561 in a penal or correctional institution.

3562 e. "Institution" means any penal or correctional facility, including but not limited to a facility for
3563 individuals with mental illness or intellectual disability, in which inmates as defined in d above may
3564 lawfully be confined.

3565 ARTICLE III.

3566 a. Each party state may make one or more contracts with any one or more of the other party states,
3567 or with the Federal Government, for the confinement of inmates on behalf of a sending state in institutions
3568 situated within receiving states. Any such contract shall provide for:

3569 (1) Its duration.

3570 (2) Payments to be made to the receiving state or to the Federal Government, by the sending state
3571 for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by
3572 inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included
3573 as part of normal maintenance.

3574 (3) Participation in programs of inmate employment, if any; the disposition or crediting of any
3575 payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any
3576 products resulting therefrom.

3577 (4) Delivery and retaking of inmates.

3578 (5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities
3579 and rights of the sending and receiving states.

3580 b. The terms and provisions of this compact shall be a part of any contract entered into by the
3581 authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.

3582 ARTICLE IV.

3583 a. Whenever the duly constituted authorities in a state party to this compact, and which has entered
3584 into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an
3585 institution within the territory of another party state is necessary or desirable in order to provide adequate
3586 quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that
3587 the confinement be within an institution within the territory of said other party state, the receiving state to
3588 act in that regard solely as agent for the sending state.

3589 b. The appropriate officials of any state party to this compact shall have access, at all reasonable
3590 times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting
3591 the facilities thereof and visiting such of its inmates as may be confined in the institution.

3592 c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be
3593 subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a
3594 prison or other institution within the sending state, for transfer to another institution in which the sending
3595 state may have a contractual or other right to confine inmates, for release on probation or parole, for
3596 discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending
3597 state shall continue to be obligated to such payments as may be required pursuant to the terms of any
3598 contract entered into under the terms of Article III.

3599 d. Each receiving state shall provide regular reports to each sending state on the inmates of that
3600 sending state in institutions pursuant to this compact including a conduct record of each inmate and certify
3601 said record to the official designated by the sending state, in order that each inmate may have official
3602 review of his-~~or her~~ record in determining and altering the disposition of said inmate in accordance with
3603 the law which may obtain in the sending state and in order that the same may be a source of information
3604 for the sending state.

3605 e. All inmates who may be confined in an institution pursuant to the provisions of this compact
3606 shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates
3607 of the receiving state as may be confined in the same institution. The fact of confinement in a receiving
3608 state shall not deprive any inmate so confined of any legal rights which said inmate would have had if
3609 confined in an appropriate institution of the sending state.

3610 f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled
3611 by the laws of the sending state may be had before the appropriate authorities of the sending state, or of
3612 the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities
3613 for such hearings as may be conducted by the appropriate officials of a sending state. In the event such
3614 hearing or hearings are had before officials of the receiving state, the governing law shall be that of the
3615 sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said

3616 record together with any recommendations of the hearing officials shall be transmitted forthwith to the
3617 official or officials before whom the hearing would have been had if it had taken place in the sending
3618 state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the
3619 receiving state shall act solely as agents of the sending state and no final determination shall be made in
3620 any matter except by the appropriate officials of the sending state.

3621 g. Any inmate confined pursuant to this compact shall be released within the territory of the
3622 sending state unless the inmate, and the sending and receiving states, shall agree upon release in some
3623 other place. The sending state shall bear the cost of such return to its territory.

3624 h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to
3625 participate in and derive any benefits or incur or be relieved of any obligations or have such obligations
3626 modified or his status changed on account of any action or proceeding in which he could have participated
3627 if confined in any appropriate institution of the sending state located within such state.

3628 i. The parents, guardian, trustee, or other person or persons entitled under the laws of the sending
3629 state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted
3630 in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

3631 ARTICLE V.

3632 a. Any decision of the sending state in respect of any matter over which it retains jurisdiction
3633 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at
3634 the time the sending state seeks to remove an inmate from an institution in the receiving state there is
3635 pending against the inmate within such state any criminal charge or if the inmate is formally accused of
3636 having committed within such state a criminal offense, the inmate shall not be returned without the consent
3637 of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or
3638 detention for such offense. The duly accredited officers of the sending state shall be permitted to transport
3639 inmates pursuant to this compact through any and all states party to this compact without interference.

3640 b. An inmate who escapes from an institution in which he is confined pursuant to this compact
3641 shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In
3642 the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for

3643 institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained
3644 herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction
3645 directed toward the apprehension and return of an escapee.

3646 ARTICLE VI.

3647 Any state party to this compact may accept federal aid for use in connection with any institution
3648 or program, the use of which is or may be affected by this compact or any contract pursuant hereto and
3649 any inmate in a receiving state pursuant to this compact may participate in any such federally-aided
3650 program or activity for which the sending and receiving states have made contractual provision, provided
3651 that if such program or activity is not part of the customary correctional regimen the express consent of
3652 the appropriate official of the sending state shall be required therefor.

3653 ARTICLE VII.

3654 This compact shall enter into force and become effective and binding upon the states so acting
3655 when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and
3656 become effective and binding as to any other of said states upon similar action by such state.

3657 ARTICLE VIII.

3658 This compact shall continue in force and remain binding upon a party state until it shall have
3659 enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal
3660 from the compact to the appropriate official of all other party states. An actual withdrawal shall not take
3661 effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not
3662 relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of
3663 withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its
3664 own expense, such inmates as it may have confined pursuant to the provisions of this compact.

3665 ARTICLE IX.

3666 Nothing contained in this compact shall be construed to abrogate or impair any agreement or other
3667 arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or
3668 treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative
3669 institutional arrangements.

3670 ARTICLE X

3671 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
3672 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
3673 participating state or of the United States or the applicability thereof to any government, agency, person
3674 or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof
3675 to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be
3676 held contrary to the constitution of any state participating therein, the compact shall remain in full force
3677 and effect as to the remaining states and in full force and effect as to the state affected as to all severable
3678 matters.

3679 **Drafting note: Amendments eliminate superfluous gender-specific terms and make a**
3680 **technical change consistent with Va. Code § 1-216. Similar construction is used by other member**
3681 **states to the compact. See, e.g., Iowa Code Ann. § 913.2 ("Inmate' means an offender who is**
3682 **committed, under sentence to or confined in a penal or correctional institution.").** Moreover, non-
3683 substantive differences in the text of an interstate compact do not affect the validity or enforcement
3684 of the terms of the compact. As the opening paragraph of this section provides, the compact is
3685 effective among jurisdictions that adopt its provisions "in form substantially" as adopted in
3686 Virginia. *See Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis
3687 added) (noting that compacts "constitute an agreement between the Commonwealth of Virginia and
3688 other states, territories and the United States, who join in a compact *by enacting substantially the*
3689 *same provisions*"). *Cf. Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the
3690 enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained
3691 differences, but were "substantively identical").

3692 § 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.

3693 A. The provisions of this chapter shall not apply to:

3694 1. Any governmental agency performing work with its own forces;

3695 2. Work bid upon or undertaken for the armed services of the United States under the Armed
3696 Services Procurement Act;

- 3697 3. Work bid upon or undertaken for the United States government on land under the exclusive
3698 jurisdiction of the federal government either by statute or deed of cession;
- 3699 4. Work bid upon or undertaken for the Department of Transportation on the construction,
3700 reconstruction, repair or improvement of any highway or bridge;
- 3701 5. Any other persons who may be specifically excluded by other laws but only to such an extent
3702 as such laws provide;
- 3703 6. Any material supplier who renders advice concerning use of products sold and who does not
3704 provide construction or installation services;
- 3705 7. Any person who performs or supervises the construction, removal, repair or improvement of no
3706 more than one primary residence owned by him and for his own use during any 24-month period;
- 3707 8. Any person who performs or supervises the construction, removal, repair or improvement of a
3708 house upon his own real property as a bona fide gift to a member of his immediate family provided such
3709 member lives in the house. For purposes of this section, "immediate family" includes one's ~~mother, father,~~
3710 ~~son, daughter, brother, sister~~ parent, child, sibling, grandchild, grandparent, ~~mother-in-law~~ and ~~father-in-~~
3711 ~~law~~ parent-in-law;
- 3712 9. Any person who performs or supervises the repair or improvement of industrial or
3713 manufacturing facilities, or a commercial or retail building, for his own use;
- 3714 10. Any person who performs or supervises the repair or improvement of residential dwelling units
3715 owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);
- 3716 11. Any owner-developer, provided that any third-party purchaser is made a third-party beneficiary
3717 to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation
3718 to perform the contract extends to both the owner-developer and the third party;
- 3719 12. Work undertaken by students as part of a career and technical education project as defined in
3720 § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter
3721 13 of Title 22.1 for the construction of portable classrooms or single family homes;
- 3722 13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or
3723 sanitizing services incidental to the construction, removal, repair, or improvement of real property; and

3724 14. Work undertaken by a person providing construction, remodeling, repair, improvement,
3725 removal, or demolition valued at \$2,500 or less per project on behalf of a properly licensed contractor,
3726 provided that such contractor holds a valid license in the residential or commercial building contractor
3727 classification. However, any construction services that require an individual license or certification shall
3728 be rendered only by an individual licensed or certified in accordance with this chapter.

3729 All other contractors performing work for any government or for any governmental agency are
3730 subject to the provisions of this chapter and are required to be licensed as provided herein.

3731 B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7,
3732 10, 11, or 12 shall obtain a certificate of occupancy for any building constructed, repaired or improved by
3733 him prior to conveying such property to a third-party purchaser, unless such purchaser has acknowledged
3734 in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the
3735 property without a certificate of occupancy.

3736 C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9,
3737 10, 11, or 12 of subsection A shall comply with the provisions of the Uniform Statewide Building Code
3738 (§ 36-97 et seq.).

3739 D. Any person who violates the provisions of subsection B or C shall be guilty of a Class 1
3740 misdemeanor. The third or any subsequent conviction of violating subsection B or C during a 36-month
3741 period shall constitute a Class 6 felony.

3742 **Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

3743 **§ 54.1-2800. Definitions.**

3744 As used in this chapter, unless the context requires a different meaning:

3745 "Advertisement" means any information disseminated or placed before the public.

3746 "At-need" means at the time of death or while death is imminent.

3747 "Board" means the Board of Funeral Directors and Embalmers.

3748 "Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

3749 "Cremator" means a person or establishment that owns or operates a crematory or crematorium or
3750 cremates dead human bodies.

3751 "Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human
3752 bodies.

3753 "Embalmer" means any person engaged in the practice of embalming.

3754 "Embalming" means the process of chemically treating the dead human body by arterial injection
3755 and cavity treatment or, when necessary, hypodermic tissue injection to reduce the presence and growth
3756 of microorganisms to temporarily retard organic decomposition.

3757 "Funeral directing" means the for-profit profession of directing or supervising funerals, preparing
3758 human dead for burial by means other than embalming, or making arrangements for funeral services or
3759 the financing of funeral services.

3760 "Funeral director" means any person engaged in the practice of funeral directing.

3761 "Funeral service establishment" means any main establishment, branch, or chapel that is
3762 permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local
3763 building official where any part of the profession of funeral directing, the practice of funeral services, or
3764 the act of embalming is performed.

3765 "Funeral service intern" means a person who is preparing to be licensed for the practice of funeral
3766 services under the direct supervision of a practitioner licensed by the Board.

3767 "Funeral service licensee" means a person who is licensed in the practice of funeral services.

3768 "In-person communication" means face-to-face communication and telephonic communication.

3769 "Next of kin" means any of the following persons, regardless of the relationship to the decedent:
3770 any person designated to make arrangements for the disposition of the decedent's remains upon his death
3771 pursuant to § 54.1-2825, the legal spouse, child aged 18 years or older, parent of a decedent aged 18 years
3772 or older, custodial parent or noncustodial parent of a decedent younger than 18 years of age, siblings over
3773 18 years of age, guardian of minor child, guardian of minor siblings, ~~maternal grandparents, paternal~~
3774 ~~grandparents, maternal siblings over 18 years of age and paternal parent's~~ siblings over 18 years of age,
3775 or any other relative in the descending order of blood relationship.

3776 "Practice of funeral services" means engaging in the care and disposition of the human dead, the
3777 preparation of the human dead for the funeral service, burial or cremation, the making of arrangements

3778 for the funeral service or for the financing of the funeral service and the selling or making of financial
3779 arrangements for the sale of funeral supplies to the public.

3780 "Preneed" means at any time other than at-need.

3781 "Preneed funeral contract" means any agreement where payment is made by the consumer prior to
3782 the receipt of services or supplies contracted for, which evidences arrangements prior to death for (i) the
3783 providing of funeral services or (ii) the sale of funeral supplies.

3784 "Preneed funeral planning" means the making of arrangements prior to death for (i) the providing
3785 of funeral services or (ii) the sale of funeral supplies.

3786 "Solicitation" means initiating contact with consumers with the intent of influencing their selection
3787 of a funeral plan or funeral service provider.

3788 **Drafting note: Amendments replace gender-specific terms with gender neutral ones.**

3789 **§ 54.1-2986. Procedure in absence of an advance directive; procedure for advance directive**
3790 **without agent; no presumption; persons who may authorize health care for patients incapable of**
3791 **informed decisions.**

3792 A. Whenever a patient is determined to be incapable of making an informed decision and (i) has
3793 not made an advance directive in accordance with this article or (ii) has made an advance directive in
3794 accordance with this article that does not indicate his wishes with respect to the health care at issue and
3795 does not appoint an agent, the attending physician may, upon compliance with the provisions of this
3796 section, provide, continue, withhold or withdraw health care upon the authorization of any of the following
3797 persons, in the specified order of priority, if the physician is not aware of any available, willing and capable
3798 person in a higher class:

3799 1. A guardian for the patient. This subdivision shall not be construed to require such appointment
3800 in order that a health care decision can be made under this section; or

3801 2. The patient's spouse except where a divorce action has been filed and the divorce is not final; or

3802 3. An adult child of the patient; or

3803 4. A parent of the patient; or

3804 5. An adult ~~brother or sister~~ sibling of the patient; or

3805 6. Any other relative of the patient in the descending order of blood relationship; or

3806 7. Except in cases in which the proposed treatment recommendation involves the withholding or
3807 withdrawing of a life-prolonging procedure, any adult, except any director, employee, or agent of a health
3808 care provider currently involved in the care of the patient, who (i) has exhibited special care and concern
3809 for the patient and (ii) is familiar with the patient's religious beliefs and basic values and any preferences
3810 previously expressed by the patient regarding health care, to the extent that they are known. A quorum of
3811 a patient care consulting committee as defined in § 54.1-2982 of the facility where the patient is receiving
3812 health care or, if such patient care consulting committee does not exist or if a quorum of such patient care
3813 consulting committee is not reasonably available, two physicians who (a) are not currently involved in the
3814 care of the patient, (b) are not employed by the facility where the patient is receiving health care, and (c)
3815 do not practice medicine in the same professional business entity as the attending physician shall
3816 determine whether a person meets these criteria and shall document the information relied upon in making
3817 such determination.

3818 If two or more of the persons listed in the same class in subdivisions A 3 through A 7 with equal
3819 decision-making priority inform the attending physician that they disagree as to a particular health care
3820 decision, the attending physician may rely on the authorization of a majority of the reasonably available
3821 members of that class.

3822 B. Regardless of the absence of an advance directive, if the patient has expressed his intent to be
3823 an organ donor in any written document, no person noted in this section shall revoke, or in any way hinder,
3824 such organ donation.

3825 **Drafting note: Amendment replaces gender-specific terms with gender neutral ones.**

3826 **§ 57-27.3. Authorization for interment.**

3827 A cemetery may accept the notarized signature of one next of kin of a decedent for the purpose of
3828 authorizing the interment or entombment, and for erecting a memorial on the grave, crypt or niche, unless
3829 the cemetery is on written notice that there exists a dispute between next of kin over such interment,
3830 entombment or memorialization. In the case of such a dispute, the cemetery shall have no obligation to

3831 perform the interment, entombment or memorialization until there is agreement of all next of kin, or a
3832 court order adjudicating the issue among all necessary parties.

3833 For purposes of this section, "next of kin" means any of the following persons, regardless of the
3834 relationship to the decedent: any person designated to make arrangements for the disposition of the
3835 decedent's remains upon his death pursuant to § 54.1-2825, the legal spouse, child over 18 years of age,
3836 custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of
3837 minor siblings, ~~maternal grandparents, paternal~~ grandparents, ~~maternal siblings over 18 years of age and~~
3838 ~~paternal~~ parent's siblings over 18 years of age, or any other relative in the descending order of blood
3839 relationship.

3840 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

3841 **§ 58.1-2403. Exemptions.**

3842 No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

- 3843 1. Sold to or used by the United States government or any governmental agency thereof;
- 3844 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
- 3845 3. Registered in the name of a volunteer fire department or volunteer emergency medical services
3846 agency not operated for profit;
- 3847 4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any
3848 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 3849 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
3850 lienholder;
- 3851 6. A manufactured home permanently attached to real estate and included in the sale of real estate;
- 3852 7. A gift to the spouse, ~~son, daughter~~ child, or parent of the transferor. With the exception of a gift
3853 to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental
3854 to the transfer;
- 3855 8. Transferred from an individual or partnership to a corporation or limited liability company or
3856 from a corporation or limited liability company to an individual or partnership if the transfer is incidental

3857 to the formation, organization or dissolution of a corporation or limited liability company in which the
3858 individual or partnership holds the majority interest;

3859 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent
3860 corporation to a wholly owned subsidiary;

3861 10. Being registered for the first time in the Commonwealth and the applicant holds a valid,
3862 assignable title or registration issued to him by another state or a branch of the United States Armed Forces
3863 and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12
3864 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been
3865 purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a
3866 sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value
3867 of the vehicle at the time of registration in Virginia;

3868 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

3869 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except
3870 for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For
3871 purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms
3872 are defined in § 46.2-602.2;

3873 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban
3874 bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one
3875 way, on the same day;

3876 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole
3877 purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

3878 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and
3879 for the use of a church conducted not for profit;

3880 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in
3881 the instruction of driver's education when such education is a part of such school's curriculum for full-
3882 time students;

3883 16. Sold to an insurance company or local government group self-insurance pool, created pursuant
3884 to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered
3885 owner of such vehicle a total loss claim;

3886 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers
3887 of foreign governments, their employees or agents, and members of their families, if such persons are
3888 nationals of the state by which they are appointed and are not citizens of the United States;

3889 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a
3890 nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United
3891 States Internal Revenue Code;

3892 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common
3893 carrier or common carrier of passengers;

3894 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human
3895 diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative
3896 hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a
3897 nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in,
3898 diagnosis of, or therapy for human ailments;

3899 21. Transferred, as a gift or through a sale to an organization exempt from taxation under §
3900 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by
3901 such organization;

3902 22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of
3903 the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
3904 medicines, and other necessities of life to, and providing shelter for, needy persons in the United States
3905 and throughout the world;

3906 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a
3907 Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether
3908 other beneficiaries of the trust may also be named in the trust instrument, when no consideration has

3909 passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the
3910 trustees holding title to the motor vehicle;

3911 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
3912 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named
3913 in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the
3914 death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either
3915 case;

3916 25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if
3917 the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with
3918 respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the
3919 lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid
3920 to the Commonwealth by the lessee purchasing the vehicle;

3921 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,
3922 of such deceased person;

3923 27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such all-
3924 terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other vehicle
3925 subject to the tax imposed under this chapter;

3926 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3)
3927 of the Internal Revenue Code and that is primarily used by the organization to transport to markets for
3928 sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

3929 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted
3930 the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or
3931 (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded
3932 to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the
3933 Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of
3934 purchase.

3935 **Drafting note: Amendment replaced gender-specific terms with gender-neutral ones.**

3936 **§ 59.1-21.10. Definitions.**

3937 As used in this chapter, the following terms shall have the following meanings unless the context
3938 requires otherwise:

3939 "Dealer" means any person who purchases motor fuel for sale to the general public for ultimate
3940 consumption. "Dealer" shall not mean any person, including any affiliate of such person, who (i) purchases
3941 motor fuel for sale, consignment, or distribution to another; (ii) receives motor fuel on consignment for
3942 consignment or distribution to his own motor fuel accounts or to accounts of his supplier; or (iii) who is
3943 an employee of, or merely serves as a common carrier providing transportation service, for such person.

3944 "Designated family member" means the adult spouse, adult child or stepchild, or adult ~~brother or~~
3945 ~~sister~~ sibling of the dealer who is designated in the franchise agreement as the successor to the dealer's
3946 interest under the agreement and who shall become the dealer upon the completion of the succession.

3947 "Franchise" or "franchise agreement" means any agreement, express or implied, between a refiner
3948 and a dealer under which a refiner authorizes or permits a dealer to use, in connection with the sale,
3949 consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner.

3950 "Franchise" or "franchise agreement" shall also mean any agreement, express or implied, under which a
3951 dealer is granted the right to occupy leased marketing premises, which premises are to be employed in
3952 connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or
3953 controlled by such refiner.

3954 "Franchise fee" means any fee or charge that a dealer is required to pay or agrees to pay for the
3955 right to enter into a franchise agreement or to become a dealer at the premises to which the franchise
3956 agreement relates. The term "franchise fee" shall not include reasonable actual costs and expenses incurred
3957 by the refiner in effecting the assignment, transfer, or sale.

3958 "Franchisor" means a refiner who authorizes or permits, under a franchise, a dealer to use a
3959 trademark in connection with the sale, consignment, or distribution of motor fuel.

3960 "Jobber/distributor" means any person, including any affiliate of such person, who (i) purchases
3961 motor fuel for sale, consignment, or distribution to another; or (ii) receives motor fuel on consignment for
3962 consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not

3963 include a person who is an employee of, or merely serves as a common carrier providing transportation
3964 service for, such supplier.

3965 "Newly remodeled facility" means a retail outlet, marketing premises, or leased marketing
3966 premises which, within an 18-month period, has been rebuilt, renovated, or reconstructed at a cost of (i)
3967 for facilities remodeled before January 1, 2004, a minimum of \$560,000; or (ii) for facilities remodeled
3968 on or after January 1, 2004, a minimum of \$560,000 plus an amount reflecting the annual rate of inflation,
3969 such amount to be calculated on January 1 of each year by the Commissioner of the Department of
3970 Agriculture and Consumer Services by referring to the Consumer Price Index published by the United
3971 States Department of Labor, Bureau of Labor Statistics.

3972 "Operation of a retail outlet" means the ownership or option to buy a properly zoned parcel of
3973 property for which a permit to build a retail outlet has been granted.

3974 "Petroleum products" or "motor fuel" means gasoline and diesel fuel of a type distributed for use
3975 as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

3976 "Profit" means the net gain, for income tax purposes, realized by the dealer upon the assignment,
3977 transfer, or sale of the franchise agreement.

3978 "Refiner" means any person engaged in the refining of crude oil to produce motor fuel and includes
3979 any affiliate of such person.

3980 "Retail" means the sale of petroleum products for purposes other than resale.

3981 "Retail outlet," "marketing premises," or "leased marketing premises" means the premises at which
3982 petroleum products are sold to the general public.

3983 "Trial franchise" means the same as provided in the Petroleum Marketing Practices Act (15 U.S.C.
3984 § 2803 et seq.).

3985 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

3986 **§ 59.1-352.1. Definitions.**

3987 As used in this chapter, unless the context requires otherwise:

3988 "Agreement" means a written or oral contract or agreement between a dealer and a wholesaler,
3989 manufacturer, or distributor by which the dealer is granted one or more of the following rights:

- 3990 1. To sell or distribute goods or services.
- 3991 2. To use a trade name, trademark, service mark, logo type, or advertising or other commercial
3992 symbol.
- 3993 "Current model" means a model listed in the wholesaler's, manufacturer's, or distributor's current
3994 sales manual or any supplements.
- 3995 "Current net price" means the price listed in the supplier's price list or catalog in effect at the time
3996 the agreement is terminated, less any applicable discounts allowed.
- 3997 "Dealer" means a person engaged in the business of selling at retail farm, construction, utility or
3998 industrial equipment, implements, machinery, attachments, outdoor power equipment, or repair parts.
- 3999 "Family member" means a spouse, ~~brother, sister~~ sibling, parent, grandparent, child, grandchild,
4000 ~~mother-in-law, father-in-law, daughter-in-law, son-in-law~~ parent-in-law, child-in-law, stepparent, or
4001 stepchild, or a lineal descendant of the dealer or principal owner of the dealership.
- 4002 "Good cause" means failure by a dealer to comply with requirements imposed upon the dealer by
4003 the agreement if the requirements are not different from those imposed on other dealers similarly situated
4004 in this Commonwealth. In addition, good cause exists in any of the following circumstances:
- 4005 1. A petition under bankruptcy or receivership law has been filed against the dealer.
- 4006 2. The dealer has made an intentional misrepresentation with the intent to defraud the supplier.
- 4007 3. Default by the dealer under a chattel mortgage or other security agreement between the dealer
4008 and the supplier or a revocation or discontinuance of a guarantee of a present or future obligation of the
4009 retailer to the supplier.
- 4010 4. Closeout or sale of a substantial part of the dealer's business related to the handling of goods;
4011 the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation;
4012 or a change, without the prior written approval of the supplier, which shall not be unreasonably withheld,
4013 in the location of the dealer's principal place of business or additional locations set forth in the agreement.
- 4014 5. Withdrawal of an individual proprietor, partner, major shareholder, or manager of the
4015 dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written
4016 consent of the supplier.

4017 6. Revocation or discontinuance of any guarantee of the dealer's present or future obligations to
4018 the supplier.

4019 7. The dealer has failed to operate in the normal course of business for seven consecutive business
4020 days or has otherwise abandoned the business.

4021 8. The dealer has pleaded guilty to or has been convicted of a felony affecting the relationship
4022 between the dealer and the supplier.

4023 9. The dealer transfers an interest in the dealership, or a person with a substantial interest in the
4024 ownership or control of the dealership, including an individual proprietor, partner, or major shareholder,
4025 withdraws from the dealership or dies, or a substantial reduction occurs in the interest of a partner or major
4026 shareholder in the dealership.

4027 "Inventory" means farm implements and machinery, construction, utility and industrial equipment,
4028 consumer products, outdoor power equipment, attachments, or repair parts.

4029 "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable
4030 discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the
4031 dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

4032 "Superseded part" means any part that will provide the same function as a currently available part
4033 as of the date of cancellation.

4034 "Supplier" means a wholesaler, manufacturer, distributor, or any purchaser of assets or stock of
4035 any surviving corporation resulting from a merger or liquidation, any receiver or assignee, or any trustee
4036 of the original manufacturer, wholesaler, or distributor who enters into an agreement with a dealer.

4037 "Termination" of an agreement means the termination, cancellation, nonrenewal, or
4038 noncontinuance of the agreement.

4039 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4040 **§ 59.1-365. Definitions.**

4041 As used in this chapter, unless the context requires a different meaning:

4042 "Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the
4043 Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of

4044 Title 15 of the United States Code, and in which an individual may establish an account with an entity,
4045 licensed by the Commission, to place pari-mutuel wagers in person or electronically.

4046 "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a
4047 multiple of \$0.10.

4048 "Commission" means the Virginia Racing Commission.

4049 "Dependent" means a ~~son, daughter, father, mother, brother, sister~~ child, parent, sibling, or other
4050 person, whether or not related by blood or marriage, if such person receives from an officer or employee
4051 more than one-half of his financial support.

4052 "Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation
4053 define and designate those drugs the use of which is prohibited or restricted.

4054 "Enclosure" means all areas of the property of a track to which admission can be obtained only by
4055 payment of an admission fee or upon presentation of authorized credentials, and any additional areas
4056 designated by the Commission.

4057 "Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and
4058 cancellations.

4059 "Horse racing" means a competition on a set course involving a race between horses on which
4060 pari-mutuel wagering is permitted.

4061 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household
4062 as an officer or employee, who is a dependent of the officer or employee or of whom the officer or
4063 employee is a dependent.

4064 "Licensee" includes any person holding an owner's or operator's license under Article 2 (§ 59.1-
4065 375 et seq.).

4066 "Member" includes any person designated a member of a nonstock corporation, and any person
4067 who by means of a pecuniary or other interest in such corporation exercises the power of a member.

4068 "Pari-mutuel wagering" means the system of wagering on horse races in which those who wager
4069 on horses that finish in the position or positions for which wagers are taken share in the total amounts
4070 wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and

4071 includes pari-mutuel wagering on simulcast horse racing originating within the Commonwealth or from
4072 any other jurisdiction.

4073 "Participant" means any person who (i) has an ownership interest in any horse entered to race in
4074 the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the
4075 Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in
4076 the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner,
4077 trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee,
4078 concessionaire or employee thereof, track employee, or other position the Commission deems necessary
4079 to regulate to ensure the integrity of horse racing in Virginia.

4080 "Permit holder" includes any person holding a permit to participate in any horse racing subject to
4081 the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as
4082 provided in § 59.1-387.

4083 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
4084 business, trust, association, or other legal entity.

4085 "Pool" means the amount wagered during a race meeting or during a specified period thereof.

4086 "Principal stockholder" means any person who individually or in concert with his spouse and
4087 immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of
4088 the stock of any person which is a licensee, or who in concert with his spouse and immediate family
4089 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
4090 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
4091 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly traded
4092 corporation holding, directly or indirectly, a license from the Commission.

4093 "Race meeting" means the whole consecutive period of time during which horse racing with pari-
4094 mutuel wagering is conducted by a licensee.

4095 "Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is
4096 licensed by the Commission.

4097 "Recognized majority horsemen's group" means the organization recognized by the Commission
4098 as the representative of the majority of owners and trainers racing at race meetings subject to the
4099 Commission's jurisdiction.

4100 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license
4101 fee to the Commission and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the
4102 Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law,
4103 regulation or contract approved by the Commission.

4104 "Satellite facility" means all areas of the property at which simulcast horse racing is received for
4105 the purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

4106 "Significant infrastructure facility" means a horse racing facility that has been approved by a local
4107 referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile
4108 dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered seating
4109 for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

4110 "Significant infrastructure limited licensee" means a person who owns or operates a significant
4111 infrastructure facility and holds a limited license under § 59.1-376.

4112 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or
4113 both, of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack
4114 or satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth
4115 or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any
4116 other means for the purposes of conducting pari-mutuel wagering.

4117 "Steward" means a racing official, duly appointed by the Commission, with powers and duties
4118 prescribed by Commission regulations.

4119 "Stock" includes all classes of stock, partnership interest, membership interest, or similar
4120 ownership interest of an applicant or licensee, and any debt or other obligation of such person or an
4121 affiliated person if the Commission finds that the holder of such interest or stock derives therefrom such
4122 control of or voice in the operation of the applicant or licensee that he should be deemed an owner of
4123 stock.

4124 "Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses
4125 in the Commonwealth of Virginia.

4126 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

4127 **§ 60.2-219. Services not included in term "employment."**

4128 The term "employment" shall not include:

4129 1. Service performed in the employ of the United States government or of any instrumentality of
4130 the United States which is wholly or partially owned by the United States or which is exempt from the tax
4131 imposed by § 3301 of the Federal Internal Revenue Code by virtue of any provision of law which
4132 specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

4133 2. Service with respect to which unemployment compensation is payable under an unemployment
4134 compensation system established by an act of Congress, including service performed after June 30, 1939,
4135 for an employer determined to be subject to the Railroad Unemployment Insurance Act (45 U.S.C. § 351
4136 et seq.) by the agency or agencies empowered to make such determination by an act of Congress, and
4137 service as an employer representative determined to be subject to such act by such agency or agencies.

4138 The Commission is hereby authorized and directed to enter into agreements with the proper agencies under
4139 such act of Congress, which agreements shall become effective 10 days after publication thereof, in the
4140 manner provided in § 60.2-111 for general rules, to provide reciprocal treatment to individuals who have,
4141 after acquiring potential rights to benefits under this title, acquired rights to unemployment compensation
4142 under such act of Congress, or who have, after acquiring potential rights to unemployment compensation
4143 under such act of Congress, acquired rights to benefits under this title;

4144 3. Agricultural labor as defined in § 60.2-201 except as provided for in § 60.2-214;

4145 4. Domestic service in a private home, local college club or local chapter of a college fraternity or
4146 sorority except as provided for in § 60.2-215;

4147 5. Service performed on or in connection with a vessel or aircraft not an American vessel or
4148 American aircraft by an employee, if the employee is employed on and in connection with such vessel or
4149 aircraft when outside the United States;

4150 6. Service performed by an individual in, or as an officer or member of the crew of, a vessel while
4151 it is engaged in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish,
4152 crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including service
4153 performed by any such individual as an ordinary incident to any such activity, except (i) service performed
4154 in connection with the catching or taking of salmon or halibut for commercial purposes and (ii) service
4155 performed on or in connection with a vessel of more than 10 net tons, determined in the manner provided
4156 for determining the register tonnage of merchant vessels under the laws of the United States;

4157 6a. Service performed by an individual on a boat engaged in catching fish or other forms of aquatic
4158 life under an arrangement with the owner or operator of such boat pursuant to which:

4159 a. Such individual does not receive any cash remuneration, other than as provided in subdivision
4160 b;

4161 b. Such individual receives a share of the boat's, or the boats' in the case of a fishing operation
4162 involving more than one boat, catch of fish or other forms of aquatic animal life, or a share of the proceeds
4163 from the sale of such catch; and

4164 c. The amount of such individual's share depends on the amount of the boat's, or the boats' in the
4165 case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal
4166 life, but only if the operating crew of such boat, or each boat from which the individual receives a share
4167 in the case of a fishing operation involving more than one boat is normally made up of fewer than 10
4168 individuals;

4169 7. Service performed by an individual in the employ of his ~~son, daughter,~~ child or spouse and
4170 service performed by a child under the age of 21 in the employ of his ~~father or mother~~ parent;

4171 8. Service performed in any calendar quarter in the employ of any organization exempt from
4172 income tax (i) under § 501(a) of the Federal Internal Revenue Code (26 U.S.C.), other than an organization
4173 described in § 401(a) of such Code, or (ii) under § 521 of the Federal Internal Revenue Code, if the
4174 remuneration for such service is less than \$50;

4175 9. Service performed in the employ of a school or institution of higher education, if such service
4176 is performed by a student who is enrolled and is regularly attending classes at such school or institution;

4177 10. Service performed as a student nurse in the employ of a hospital or a nurses' training school by
4178 an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or
4179 approved pursuant to state law;

4180 11. Service performed as an intern in the employ of a hospital by an individual who has completed
4181 a four-year course in a medical school chartered or approved pursuant to state law;

4182 12. Service performed by an individual for an employing unit as an insurance agent or as an
4183 insurance solicitor, if all such service performed by such individual for such employing unit is performed
4184 for remuneration solely by way of commission;

4185 13. Service performed by an individual for an employing unit as a real estate salesman, if all such
4186 service performed by such individual for such employing unit is performed for remuneration solely by
4187 way of commission;

4188 14. Service covered by an arrangement between the Commission and the agency charged with the
4189 administration of any other state or federal unemployment compensation law pursuant to which all
4190 services performed by an individual for an employing unit during the period covered by such employing
4191 unit's duly approved election are deemed to be performed entirely within such agency's state or under such
4192 federal law;

4193 15. Service performed by an individual for an employing unit as an agent in the wholesale
4194 distribution and sale of gasoline and other petroleum products, if all such service performed by such
4195 individual for such employing unit is performed for remuneration solely by way of commission;

4196 16. Service not in the course of the employer's trade or business performed in any calendar quarter
4197 by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is
4198 performed by an individual who is regularly employed by such employer to perform such service. For the
4199 purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer
4200 during a calendar quarter only if (i) on each of some 24 days during such quarter such individual performs
4201 for such employer for some portion of the day service not in the course of the employer's trade or business,
4202 or (ii) such individual was regularly employed, as determined under clause (i) of this subdivision, by such
4203 employer in the performance of such service during the preceding calendar quarter;

4204 17. a. Service performed by an individual who is enrolled at a nonprofit or public educational
4205 institution which normally maintains a regular faculty and curriculum and normally has a regularly
4206 organized body of students in attendance at the place where its educational activities are carried on. In
4207 order for such services to be excluded from "employment":

4208 (1) The individual shall be enrolled as a student in a full-time program,

4209 (2) The program shall be taken for credit at such institution,

4210 (3) The program combines academic instruction with work experience, and

4211 (4) Such service shall be an integral part of such program.

4212 b. Such institution shall certify to the employer that subdivisions 17 a (1) through 17 a (4) have
4213 been met.

4214 c. This subdivision shall not apply to service performed in a program established for or on behalf
4215 of an employer or group of employers;

4216 18. Service performed in the employ of a hospital, if such service is performed by a patient of the
4217 hospital, as defined in § 60.2-221;

4218 19. Services provided by an individual pursuant to an agreement among the service recipient, a
4219 public human services agency as defined in § 15.2-2811, and such individual to an eligible service
4220 recipient in his own home or the home of the service provider, unless coverage of such services is required
4221 by the provisions of § 3304(a)(6)(A) of the Federal Unemployment Tax Act;

4222 20. Services performed by an individual as a "direct seller" provided that:

4223 a. Such person:

4224 (1) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to
4225 any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the
4226 Treasury prescribes by regulations for resale by the buyer or any other person in the home or otherwise
4227 than in a permanent retail establishment;

4228 (2) Is engaged in the trade or business of selling, or soliciting the sale of, consumer products to a
4229 consumer in the home or otherwise than in a permanent retail establishment; or

4230 (3) Is engaged in the trade or business of the delivery or distribution of newspapers or shopping
4231 news (including any delivery services directly related to such trade or business).

4232 b. Substantially all of the remuneration for the services performed as a direct seller, whether or not
4233 paid in cash, is directly related to sales or output, including the performances of services, rather than to
4234 the number of hours worked;

4235 c. The services performed by the person are performed pursuant to a written contract between such
4236 person and the person for whom the services are performed and such contract provides that the person will
4237 not be treated as an employee with respect to such services for federal tax purposes;

4238 21. Service performed after July 1, 1984, by an individual as a taxicab driver, or as a driver of an
4239 executive sedan as defined in § 46.2-2000, provided the Commission is furnished evidence that such
4240 individual is excluded from taxation by the Federal Unemployment Tax Act;

4241 22. Services performed by an individual as a "contract carrier courier driver" provided the
4242 Commission is furnished evidence that such individual is excluded from taxation by the Federal
4243 Unemployment Tax Act;

4244 23. Services performed by a full-time student in the employ of an organized camp if:

4245 a. Such camp:

4246 (1) Did not operate for more than seven months in the calendar year and did not operate for more
4247 than seven months in the preceding calendar year; or

4248 (2) Had average gross receipts for any six months in the preceding calendar year which were not
4249 more than 33- 1/3 percent of its average gross receipts for the other six months in the preceding calendar
4250 year; and

4251 b. Such full-time student performed services in the employ of such camp for less than 13 calendar
4252 weeks in such calendar year;

4253 24. Services performed by an individual as a court reporter for an employing unit if all such service
4254 performed by the individual for the employing unit is performed for remuneration solely by way of
4255 commission;

4256 25. Services performed by an individual as a cosmetologist or as a barber provided the Commission
4257 is furnished evidence that such individual is excluded from taxation by the Federal Unemployment Tax
4258 Act;

4259 26. Services performed by a licensed clinical social worker as defined in § 54.1-3700, licensed
4260 psychologist as defined in § 54.1-3600, licensed professional counselor as defined in § 54.1-3500, licensed
4261 psychiatrist, or licensed marriage and family therapist as defined in § 54.1-3500, if such individual:

4262 a. Operates under a contract specifying that the individual is free from control or direction over
4263 the performance of such services;

4264 b. Is licensed in the Commonwealth to perform independent clinical services;

4265 c. Is compensated solely by way of fees charged for services rendered by such individual; and

4266 d. Has a valid business license issued by the locality in which such individual performs such
4267 services; and

4268 27. Services performed by an inmate for a penal or custodial institution or while participating in
4269 the Diversion Center Incarceration Program pursuant to § 19.2-316.3.

4270 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4271 **§ 63.2-510. Obligation of person to support certain children living in same home; penalty.**

4272 A person shall be responsible for the support and maintenance of any child or children living in
4273 the same home in which he and the natural or adoptive parent of such child or children cohabit as ~~man~~
4274 ~~and wife~~ spouses and any such person who without cause willfully neglects or refuses or fails to provide
4275 for such support and maintenance shall be guilty of a misdemeanor and upon conviction shall be punished
4276 in accordance with the provisions of § 20-61.

4277 A pregnancy or the birth of a child during the time a person occupies the status set out above shall
4278 not be required as proof of cohabitation.

4279 The obligations imposed herein shall continue so long as such person occupies the status herein
4280 described.

4281 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

4282 **§ 63.2-602. Eligibility for Temporary Assistance for Needy Families (TANF); penalty.**

4283 A. A person shall be eligible for Temporary Assistance for Needy Families if that person:

4284 1. Has not attained the age of eighteen years, or, if regularly attending a secondary school or in the
4285 equivalent level of career and technical education, has not attained the age of nineteen years and is
4286 reasonably expected to complete his senior year of school prior to attaining age nineteen;

4287 2. Is a resident of Virginia;

4288 3. Is living with his ~~father, mother, grandfather, grandmother, brother, sister, stepfather,~~
4289 ~~stepmother, stepbrother, stepsister, uncle, aunt, parent, grandparent, sibling, step-parent, step-sibling,~~
4290 ~~parent's sibling, sibling's child, or~~ first cousin, ~~nephew, or niece~~ in a residence maintained by such relative
4291 or is in placement under conditions specified by the Board;

4292 4. Is in need of public assistance; and

4293 5. If under the age of eighteen years, is in compliance with compulsory school attendance laws (§
4294 22.1-254 et seq.) as described in § 63.2-606. Prior to imposing a sanction of benefits, the local department
4295 shall make reasonable efforts to discuss with the parent or caretaker, by personal contact that may include
4296 direct telephone contact, a plan to return the child to school. If such efforts fail, the local department shall
4297 mail a written advance notice of proposed action to the parent or caretaker advising that benefits may be
4298 reduced if the parent or caretaker fails to contact the local department to develop a plan to return the child
4299 to school.

4300 B. An applicant for TANF shall:

4301 1. Furnish, apply for or have an application made on his behalf, and on behalf of all children for
4302 whom assistance is being requested, for a social security account number to be used in the administration
4303 of the program;

4304 2. Assign the Commonwealth any rights to support from any other person such applicant may have
4305 on his own behalf or on behalf of any other family member for whom the applicant is applying for or
4306 receiving aid, except for any support that accrued prior to the execution of the assignment;

4307 3. Identify the parents of the child for whom aid is claimed, subject to the "good cause" provisions
4308 or exceptions in federal law or regulations. However, this requirement shall not apply if the child is in a
4309 foster care placement or if the local department determines, based upon the sworn statement of the

4310 applicant or recipient or of another person with knowledge of the circumstances, that the child was
4311 conceived as the result of incest or rape; and

4312 4. Cooperate in (i) locating the parent of the child with respect to whom TANF is claimed, (ii)
4313 establishing the paternity of a child born out of wedlock with respect to whom TANF is claimed, (iii)
4314 obtaining support payments for such applicant or recipient and for a child with respect to whom TANF is
4315 claimed, and (iv) obtaining any other payments or property due such applicant or recipient for such child.

4316 Any applicant or recipient who intentionally misidentifies another person as a parent shall be guilty
4317 of a Class 5 felony.

4318 C. Unless an exception to the requirement set forth in subdivision B 3 applies, the Department's
4319 Division of Child Support Enforcement shall proceed to determine parentage pursuant to Chapter 3.1 (§
4320 20-49.1 et seq.) of Title 20. If paternity is not established after six months of receipt of TANF, the case
4321 shall be reviewed to determine the reason that paternity has not been established. If paternity has not been
4322 established due to the caretaker relative's noncooperation, the local department may suspend the entire
4323 grant or the adult portion of the grant, subject to Board regulations.

4324 D. TANF shall be provided to two-parent families on the same terms and conditions that TANF is
4325 provided to single-parent families.

4326 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

4327 **§ 63.2-1000. Interstate Compact on the Placement of Children; form of compact.**

4328 The Governor of Virginia is hereby authorized and requested to execute, on behalf of the
4329 Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall
4330 be in form substantially as follows:

4331 The contracting states solemnly agree that:

4332 ARTICLE I. Purpose and Policy.

4333 It is the purpose and policy of the party states to cooperate with each other in the interstate
4334 placement of children to the end that:

4335 (a) Each child requiring placement shall receive the maximum opportunity to be placed in a
4336 suitable environment and with persons or institutions having appropriate qualifications and facilities to
4337 provide a necessary and desirable degree and type of care.

4338 (b) The appropriate authorities in a state where a child is to be placed may have full opportunity
4339 to ascertain the circumstances of the proposed placement, thereby promoting full compliance with
4340 applicable requirements for the protection of the child.

4341 (c) The proper authorities of the state from which the placement is made may obtain the most
4342 complete information on the basis of which to evaluate a projected placement before it is made.

4343 (d) Appropriate jurisdictional arrangements for the care of children will be promoted.

4344 ARTICLE II. Definitions.

4345 As used in this compact:

4346 (a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship
4347 or similar control.

4348 (b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party
4349 state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable
4350 agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

4351 (c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or
4352 brought, whether by public authorities or private persons or agencies, and whether for placement with
4353 state or local public authorities or for placement with private agencies or persons.

4354 (d) "Placement" means the arrangement for the care of a child in a family free or boarding home
4355 or in a child-caring agency or institution but does not include any institution caring for individuals with
4356 mental illness, intellectual disability, or epilepsy or any institution primarily educational in character, and
4357 any hospital or other medical facility.

4358 ARTICLE III. Conditions for Placement.

4359 (a) No sending agency shall send, bring, or cause to be sent or brought into any other party state
4360 any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency

4361 shall comply with each and every requirement set forth in this article and with the applicable laws of the
4362 receiving state governing the placement of children therein.

4363 (b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for
4364 placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the
4365 appropriate public authorities in the receiving state written notice of the intention to send, bring, or place
4366 the child in the receiving state. The notice shall contain:

4367 (1) The name, date and place of birth of the child.

4368 (2) The identity and address or addresses of the parents or legal guardian.

4369 (3) The name and address of the person, agency or institution to or with which the sending agency
4370 proposes to send, bring, or place the child.

4371 (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant
4372 to which the placement is proposed to be made.

4373 (c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to
4374 paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency
4375 of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional
4376 information as it may deem necessary under the circumstances to carry out the purpose and policy of this
4377 compact.

4378 (d) The child shall not be sent, brought or caused to be sent or brought into the receiving state until
4379 the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the
4380 effect that the proposed placement does not appear to be contrary to the interests of the child.

4381 ARTICLE IV. Penalty for Illegal Placement.

4382 The sending, bringing, or causing to be sent or brought into any receiving state of a child in
4383 violation of the terms of this compact shall constitute a violation of the laws respecting the placement of
4384 children of both the state in which the sending agency is located or from which it sends or brings the child
4385 and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in
4386 accordance with its laws. In addition to liability for any such punishment or penalty, any such violation

4387 shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other
4388 legal authorization held by the sending agency which empowers or allows it to place, or care for children.

4389 ARTICLE V. Retention of Jurisdiction.

4390 (a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in
4391 relation to the custody, supervision, care, treatment and disposition of the child which it would have had
4392 if the child had remained in the sending agency's state, until the child is adopted, reaches majority,
4393 becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving
4394 state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer
4395 to another location and custody pursuant to law. The sending agency shall continue to have financial
4396 responsibility for support and maintenance of the child during the period of the placement. Nothing
4397 contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of
4398 delinquency or crime committed therein.

4399 (b) When the sending agency is a public agency, it may enter into an agreement with an authorized
4400 public or private agency in the receiving state providing for the performance of one or more services in
4401 respect of such cases by the latter as agent for the sending agency.

4402 (c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to
4403 place children in the receiving state from performing services or acting as agent in that state for a private
4404 charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging
4405 financial responsibility for the support and maintenance of a child who has been placed on behalf of the
4406 sending agency without relieving the responsibility set forth in paragraph (a) hereof.

4407 ARTICLE VI. Institutional Care of Delinquent Children.

4408 A child adjudicated delinquent may be placed in an institution in another party jurisdiction
4409 pursuant to this compact but no such placement shall be made unless the child is given a court hearing on
4410 notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party
4411 jurisdiction for institutional care and the court finds that:

4412 1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

4413 2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce
4414 undue hardship.

4415 ARTICLE VII. Compact Administrator.

4416 The executive head of each jurisdiction party to this compact shall designate an officer who shall
4417 be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like
4418 officers of other party jurisdictions, shall have the power to promulgate rules and regulations to carry out
4419 more effectively the terms and provisions of this compact.

4420 ARTICLE VIII. Limitations.

4421 This compact shall not apply to:

4422 (a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent,
4423 adult ~~brother or sister~~ sibling, adult ~~uncle or aunt~~ sibling of a parent, or his guardian and leaving the child
4424 with any such relative or nonagency guardian in the receiving state.

4425 (b) Any placement, sending or bringing of a child into a receiving state pursuant to any other
4426 interstate compact to which both the state from which the child is sent or brought and the receiving state
4427 are party, or to any other agreement between said states which has the force of law.

4428 ARTICLE IX. Enactment and Withdrawal.

4429 This compact shall be open to joinder by any state, territory or possession of the United States, the
4430 District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the
4431 Government of Canada or any province thereof. It shall become effective with respect to any such
4432 jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be
4433 by the enactment of a statute repealing the same, but shall not take effect until two years after the effective
4434 date of such statute and until written notice of the withdrawal has been given by the withdrawing state to
4435 the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties
4436 and obligations under this compact of any sending agency therein with respect to a placement made prior
4437 to the effective date of withdrawal.

4438 ARTICLE X. Construction and Severability.

4439 The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The
4440 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this
4441 compact is declared to be contrary to the constitution of any party state or of the United States or the
4442 applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the
4443 remainder of this compact and the applicability thereof to any government, agency, person or circumstance
4444 shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party
4445 thereto, the compact shall remain in full force and effect as to the remaining states and in full force and
4446 effect as to the state affected as to all severable matters.

4447 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones. Similar**
4448 **construction is used by other member states to the compact. See, e.g., 31 Del. Code Ann. § 381 ("The**
4449 **sending or bringing of a child into a receiving state by a parent, stepparent, grandparent, adult**
4450 **sibling. . ."). Moreover, non-substantive differences in the text of an interstate compact do not affect**
4451 **the validity or enforcement of the terms of the compact. As the opening paragraph of this section**
4452 **provides, the compact is effective among jurisdictions that adopt its provisions "in form**
4453 **substantially" as adopted in Virginia. See *Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d**
4454 **27, 29 (1993) (emphasis added) (noting that compacts "constitute an agreement between the**
4455 **Commonwealth of Virginia and other states, territories and the United States, who join in a compact**
4456 **by enacting substantially the same provisions"). Cf. *Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th**
4457 **Cir. 1981) (noting that the enacted versions of the Interstate Agreement on Detainers under federal**
4458 **and Georgia law contained differences, but were "substantively identical").**

4459 **§ 63.2-1909. Receipt of public assistance for child as assignment of right in support**
4460 **obligation; Commissioner as attorney for endorsing drafts.**

4461 By accepting public assistance for or on behalf of a child or children, the recipient shall be deemed
4462 to have made an assignment to the Department of any and all right, title, and interest in any support
4463 obligation and arrearages owed to or for such child or children or custodial parent up to the amount of
4464 public assistance money paid for or on behalf of such child or children or custodial parent for such term
4465 of time as such public assistance moneys are paid; provided, however, that the Department may thereafter

4466 continue to collect any outstanding support obligation or arrearage owed to the Department as a result of
4467 such assignment up to the amount of public assistance money paid for or on behalf of such child or children
4468 or custodial parent which has not been paid by the noncustodial parent. The recipient shall also be deemed,
4469 without the necessity of signing any document, to have appointed the Commissioner as ~~his or her~~ the
4470 recipient's true and lawful attorney-in-fact to act in ~~his or her~~ the recipient's name, place, and stead to
4471 perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable
4472 instruments representing support payments which are received on behalf of such child or children or
4473 custodial parent as reimbursement for the public assistance moneys previously paid to such recipient.

4474 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4475 **§ 64.2-900. Definitions.**

4476 As used in this chapter:

4477 "Adult" means an individual who is at least 18 years of age.

4478 "Beneficiary" means an individual for whom property has been transferred to or held under a
4479 declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

4480 "Conservator" means a person appointed or qualified by a court to manage the estate of an
4481 individual or a person legally authorized to perform substantially the same functions.

4482 "Court" means a circuit court of the Commonwealth.

4483 "Custodial trust property" means an interest in property transferred to or held under a declaration
4484 of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

4485 "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or
4486 a substitute or successor to the person designated.

4487 "Guardian" means a person appointed or qualified by a court as a guardian of a person, including
4488 a limited guardian, but not a person who is only a guardian ad litem.

4489 "Incapacitated" means lacking the ability to manage property and business affairs effectively by
4490 reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic
4491 intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

4492 "Legal representative" means a personal representative or conservator.

4493 "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent,
4494 stepparent, grandparent, ~~brother, sister, uncle~~ sibling, or ~~aunt~~ parent's sibling, whether of the whole or half
4495 blood or by adoption.

4496 "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture,
4497 association, or any other legal or commercial entity.

4498 "Personal representative" means an executor, administrator, or special administrator of a
4499 decedent's estate, a person legally authorized to perform substantially the same functions, or a successor
4500 to any of them.

4501 "State" means a state, territory, or possession of the United States, the District of Columbia, or the
4502 Commonwealth of Puerto Rico.

4503 "Transferor" means a person who creates a custodial trust by transfer or declaration.

4504 "Trust company" means a financial institution, corporation, or other legal entity authorized to
4505 exercise general trust powers.

4506 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4507 **§ 64.2-1614. Judicial relief.**

4508 A. In addition to the remedies referenced in § 64.2-1621, the following persons may petition a
4509 court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:

4510 1. The principal or the agent;

4511 2. A guardian, conservator, personal representative of the estate of a deceased principal, or other
4512 fiduciary acting for the principal;

4513 3. A person authorized to make health care decisions for the principal;

4514 4. The principal's spouse, parent, or descendant;

4515 5. An adult who is a ~~brother, sister, niece~~ sibling, sibling's child, or ~~nephew~~ sibling's spouse's child
4516 of the principal;

4517 6. A person named as a beneficiary to receive any property, benefit, or contractual right on the
4518 principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in
4519 the principal's estate;

4520 7. The adult protective services unit of the local department of social services for the county or
4521 city where the principal resides or is located;

4522 8. The principal's caregiver or another person that demonstrates sufficient interest in the principal's
4523 welfare; and

4524 9. A person asked to accept the power of attorney.

4525 B. 1. Whether or not supplemental relief is sought in the proceeding, where an agent has violated
4526 duties of disclosure imposed by § 64.2-1612, any person to whom such duties are owing may, for the
4527 purpose of obtaining information pertinent to the need or propriety of (i) instituting a proceeding under
4528 Chapter 20 (§ 64.2-2000 et seq.); (ii) terminating, suspending, or limiting the authority of the agent; or
4529 (iii) bringing a proceeding to hold the agent, or a transferee from such agent, liable for breach of duty or
4530 to recover particular assets or the value of such assets of a principal or deceased principal, petition a circuit
4531 court for discovery from the agent of information and records pertaining to actions taken pursuant to a
4532 power of attorney.

4533 2. The petition may be filed in the circuit court of the county or city in which the agent resides or
4534 has his principal place of employment, or, if a nonresident, in any court in which a determination of
4535 incompetency or incapacity of the principal is proper under Chapter 20 (§ 64.2-2000 et seq.), or, if a
4536 conservator or guardian has been appointed for the principal, in the court that made the appointment. The
4537 court, after reasonable notice to the agent and to the principal, if no guardian or conservator has been
4538 appointed, or to the conservator or guardian, if one has been appointed, may conduct a hearing on the
4539 petition. The court, upon the hearing on the petition and upon consideration of the interest of the principal
4540 and his estate, may dismiss the petition or may enter such order or orders respecting discovery as it may
4541 deem appropriate, including an order that the agent respond to all discovery methods that the petitioner
4542 might employ in a civil action or suit subject to the Rules of Supreme Court of Virginia. Upon the failure
4543 of the agent to make discovery, the court may make and enforce further orders respecting discovery that
4544 would be proper in a civil action subject to such Rules and may award expenses, including reasonable
4545 attorney fees, as therein provided. Furthermore, upon completion of discovery, the court, if satisfied that
4546 prior to filing the petition the petitioner had requested the information or records that are the subject of

4547 ordered discovery pursuant to § 64.2-1612, may, upon finding that the failure to comply with the request
4548 for information was unreasonable, order the agent to pay the petitioner's expenses in obtaining discovery,
4549 including reasonable attorney fees.

4550 3. A determination to grant or deny in whole or in part discovery sought hereunder shall not be
4551 considered a finding regarding the competence, capacity, or impairment of the principal, nor shall the
4552 granting or denial of discovery hereunder preclude the availability of other remedies involving protection
4553 of the person or estate of the principal or the rights and duties of the agent.

4554 C. The agent may, after reasonable notice to the principal, petition the circuit court for authority
4555 to make gifts of the principal's property to the extent not inconsistent with the express terms of the power
4556 of attorney or other writing. The court shall determine the amounts, recipients, and proportions of any
4557 gifts of the principal's property after considering all relevant factors including, without limitation, those
4558 contained in subsection C of § 64.2-1638.

4559 D. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless
4560 the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

4561 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4562 **§ 64.2-1616. Agent's resignation; notice.**

4563 Unless the power of attorney provides a different method for an agent's resignation, an agent may
4564 resign by giving notice to the principal and, if the principal is incapacitated:

4565 1. To the conservator or guardian, if one has been appointed for the principal, and a coagent or
4566 successor agent;

4567 2. If there is no person described in subdivision 1, to an adult who is a spouse, child or other
4568 descendant, parent, ~~brother~~, or ~~sister~~ sibling of the principal;

4569 3. If none of the foregoing persons is reasonably available, another person reasonably believed by
4570 the agent to have sufficient interest in the principal's welfare; or

4571 4. If none of the foregoing persons is reasonably available, the adult protective services unit of the
4572 local department of social services for the county or city where the principal resides or is located.

4573 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

4574

#