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Title 63.2 - WELFARE (SOCIAL SERVICES)

Chapter 9 – Foster Care

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§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.

A. Pursuant to § [63.2-319](#), a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § [63.2-900.1](#). In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § [63.2-902](#). The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Virginia Birth Father Registry established pursuant to Article 7 (§ [63.2-1249](#) et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

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Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § [16.1-246](#) or § [63.2-1517](#). The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § [63.2-902](#), or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § [63.2-902](#). However, if a child is placed in a children's residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

Agreements entered into pursuant to this subsection shall include a statement by the local board that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been provided to the foster home or children's residential facility.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § [63.2-100](#), the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent

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of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § [22.1-3.1](#), [22.1-270](#) or [22.1-271.2](#), are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.

Code 1950, § 63-73; 1952, c. 409; 1960, c. 331; 1968, cc. 466, 578, § 63.1-56; 1975, cc. 248, 406; 1977, cc. 559, 562, 634, 645; 1978, c. 734; 1984, c. 734; 1986, c. 281; 1991, c. 34; 1994, c. [865](#); 1999, c. [889](#); 2002, c. [747](#); 2004, c. [70](#); 2005, cc. [343](#), [653](#); 2006, c. [360](#); 2008, cc. [241](#), [308](#); 2010, c. [551](#); 2011, cc. 9, [170](#); 2015, c. [531](#); 2017, cc. [193](#), [200](#); 2018, c. [694](#); 2019, c. [446](#).

§ 63.2-900.1. Kinship foster care.

A. The local board shall, in accordance with regulations adopted by the Board, determine whether the child has any relative who may be eligible to become a kinship foster parent. Searches for relatives eligible to serve as kinship foster parents shall be conducted at the time the child enters foster care, at least annually thereafter, and prior to any subsequent changes to the child's placement setting. The local board shall take all reasonable steps to provide notice to such relatives of their potential eligibility to become kinship foster parents and explain any opportunities such relatives may have to participate in the placement and care of the child, including opportunities available through kinship foster care or kinship guardianship.

B. Kinship foster care placements pursuant to this section shall be subject to all requirements of, and shall be eligible for all services related to, foster care placement contained in this chapter. Subject to approval by the Commissioner, a local board may grant a waiver of the Board's standards for foster home approval, set forth in regulations, that are not related to safety. Training requirements may be waived for purposes of initial approval; however, such training requirements shall be completed within six months of the initial approval. If a local board determines that training requirements are a barrier to placement with a kinship foster parent and that placement with such kinship foster parent is in the child's best interest, the local board shall submit a waiver request to the Commissioner. Waivers granted pursuant to

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this subsection shall be considered and, if appropriate, granted on a case-by-case basis and shall include consideration of the unique needs of each child to be placed. Upon request by a local board, the Commissioner shall review the local board's decision and reasoning to grant a waiver and shall verify that the foster home approval standard being waived is not related to safety. If the Commissioner grants the waiver and allows approval of the home in accordance with Board regulations, the child may be placed in the home immediately. The approval or disapproval by the Commissioner of the local board's waiver shall not be considered a case decision as defined in § [2.2-4001](#).

C. The kinship foster parent shall be eligible to receive payment at the full foster care rate for the care of the child.

D. During the process of determining whether a person should be approved as a kinship foster parent, a local board shall not require that the child be removed from the physical custody of the kinship foster parent who is the subject of such approval process, provided the placement remains in the child's best interest.

E. A child placed in kinship foster care pursuant to this section shall not be removed from the physical custody of the kinship foster parent, provided that the child has been living with the kinship foster parent for six consecutive months and the placement continues to meet approval standards for foster care, unless (i) the kinship foster parent consents to the removal; (ii) removal is agreed upon at a family partnership meeting as defined by the Department; (iii) removal is ordered by a court of competent jurisdiction; or (iv) removal is warranted pursuant to § [63.2-1517](#).

F. For purposes of this section, "relative" means an adult who is (i) related to the child by blood, marriage, or adoption or (ii) fictive kin of the child.

2006, c. [360](#); 2012, c. [568](#); 2014, c. [257](#); 2016, c. [25](#); 2019, cc. [437](#), [438](#), [446](#); 2020, cc. [224](#), [366](#), [562](#).

§ 63.2-900.2. Placement of sibling groups; visitation.

All reasonable steps shall be taken to place siblings entrusted to the care of a local board or licensed child-placing agency, committed to the care of a local board or agency by any court of competent jurisdiction, or placed with a local board or public agency through an agreement between a local board or a public agency and the parent, parents, or guardians, where legal custody remains with the parent, parents, or guardian, together in the same foster home.

Where siblings are placed in separate foster homes, the local department, child-placing agency, or public agency shall develop a plan to encourage frequent and regular visitation or

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communication between the siblings. The visitation or communication plan shall take into account the wishes of the child, and shall specify the frequency of visitation or communication, identify the party responsible for encouraging that visits or communication occur, and state any other requirements or restrictions related to such visitation or communication as may be determined necessary by the local department, child-placing agency, or public agency.

2008, c. [397](#).

§ 63.2-900.3. School placement of children in foster care.

When placing a child of school age in a foster care placement, as defined in § [63.2-100](#), the local social services agency making such placement shall, in writing, determine jointly with the local school division whether it is in the child's best interests to remain enrolled at the school in which he was enrolled prior to the most recent foster care placement, pursuant to § [22.1-3.4](#).

2011, c. [154](#); 2012, c. [711](#).

§ 63.2-901. Supervision of placement of children in homes.

The local director shall supervise the placement in suitable homes of children placed through an agreement with the parents or guardians or entrusted or committed to the local board pursuant to §§ [63.2-900](#), [63.2-902](#) and [63.2-903](#).

Code 1950, § 63-89; 1968, c. 578, § 63.1-67.2; 1994, c. [865](#); 2002, c. [747](#).

§ 63.2-901.1. Criminal history and central registry check for placements of children.

A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry of any individual with whom the local board or licensed child-placing agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care placement, unless the birth parent has revoked an entrustment agreement pursuant to § [63.2-1223](#) or [63.2-1817](#) or a local board or birth parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians pursuant to § [63.2-900](#). The local board or licensed child-placing agency shall also obtain such background checks on all adult household members residing in the home of the

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individual with whom the child is to be placed pursuant to subsection B. Such state criminal records or registry search shall be at no cost to the individual. The local board or licensed child-placing agency shall pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for responding to requests required by this section.

B. Background checks pursuant to this section require the following:

1. A sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
2. That the individual submit to fingerprinting and provide personal descriptive information to be forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The local board or licensed child-placing agency shall inform the individual that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final decision is made of the individual's fitness to have responsibility for the safety and well-being of children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an individual's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the local board or licensed child-placing agency whether the individual meets the criteria for having responsibility for the safety and well-being of children based on whether or not the individual has ever been convicted of or is the subject of pending charges for any barrier crime as defined in § [19.2-392.02](#). Copies of any information received by a local board or licensed child-placing agency pursuant to this section shall be available to the state agency that regulates or operates such a child-placing agency but shall not be disseminated further; and

3. A search of the central registry maintained pursuant to § [63.2-1515](#) for any founded complaint of child abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any other state pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in which a prospective parent or other adult in the home has resided in the preceding five years.

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C. In emergency circumstances, each local board may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section. Within three days of placing a child, the local board shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information, pursuant to subsection B. The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a criminal history record check when requested.

D. Any individual with whom the local board is considering placing a child on an emergency basis shall submit to a search of the central registry maintained pursuant to § [63.2-1515](#) and the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or neglect. The search of the central registry must occur prior to emergency placement. Such central registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall provide a written statement of affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not approve individuals with a founded complaint of child abuse as foster or adoptive parents.

E. The child-placing agency shall not approve a foster or adoptive home if any individual has been convicted of any barrier crime as defined in § [19.2-392.02](#) or is the subject of a founded complaint of abuse or neglect as maintained in registries pursuant to § [63.2-1515](#) and 42 U.S.C.S. 16901 et seq. A child-placing agency may approve as a foster parent an applicant who has been convicted of not more than one misdemeanor as set out in § [18.2-57](#), or any substantially similar offense under the laws of another jurisdiction, not involving the abuse, neglect, or moral turpitude of a minor, provided that 10 years have elapsed following the conviction.

F. A local board or child-placing agency may approve as a kinship foster care parent an applicant who has been convicted of the following offenses, provided that 10 years have elapsed from the date of the conviction and the local board or child-placing agency makes a specific finding that approving the kinship foster care placement would not adversely affect the safety and well-being of the child: (i) any offense set forth in clause (iv) of the definition of barrier crime in § [19.2-392.02](#) or (ii) any misdemeanor offense under § [18.2-80](#), [18.2-81](#), [18.2-83](#), [18.2-87](#), [18.2-87.1](#), or [18.2-88](#) or any substantially similar offense under the laws of another jurisdiction.

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G. Any individual participating in the Fostering Futures program, which allows local departments to continue to provide foster care services to individuals who are 18 years of age or older but have not reached 21 years of age, who is placed in a foster home shall be subject to the background check requirements set forth in subsection B. The results of such background check shall be used for the sole purpose of determining whether other children should be placed or remain in the same foster home as the individual subject to the background check. The results of the background check shall not be used to terminate or suspend the approval of the foster home pursuant to subsection E. For purposes of this subsection, "individual participating in the Fostering Futures program" means a person who is 18 years of age or older but has not reached 21 years of age and is receiving foster care services through the Fostering Futures program.

2002, cc. [587](#), [606](#), § 63.1-56.01; 2005, c. [722](#); 2006, c. [558](#); 2007, cc. [606](#), [617](#), [623](#), [871](#); 2011, cc. [5](#), [156](#); 2012, c. [568](#); 2017, cc. [194](#), [809](#).

§ 63.2-902. Agreements with persons taking children; dispute resolution; appeals.

A. Every local board and licensed child-placing agency shall, with respect to each child placed by it in a foster home or children's residential facility, enter into a written agreement contained in an approved foster care policy with the head of such home or facility, which agreement shall provide that the authorized representatives of the local board or agency shall have access at all times to such child and to the home or facility, and that the head of the home or facility will release custody of the child so placed to the authorized representatives of the local board or agency whenever, in the opinion of the local board or agency, or in the opinion of the Commissioner, it is in the best interests of the child.

B. Local boards and licensed child-placing agencies shall implement and publicize a dispute resolution process through which a foster parent may contest an alleged violation of the regulations governing the collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents. Prior to filing a complaint through such dispute resolution process, the foster parent shall contact the family services specialist assigned to the foster home, provide a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, and attempt to resolve the dispute. Family services specialists shall respond within five business days and explain any corrective action to be taken in response to the foster parent's complaint. If the foster parent and family services specialist are unable to resolve the complaint informally, the foster parent may file a written complaint through the dispute resolution process with the local board's foster care supervisor or assigned designee. The complaint shall include a detailed description of the conduct constituting the alleged

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violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, along with any other information required by Department regulation. The foster care supervisor or assigned designee shall respond to the complaint in writing within five business days, setting forth all findings regarding the alleged violation and any corrective action to be taken.

If the foster parent disagrees with the findings or corrective actions proposed by the foster care supervisor or assigned designee, the foster parent may appeal the decision to the local director by filing a written notice of appeal. The notice of appeal shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents, a copy of the foster care supervisor or assigned designee's findings and recommendations, and any other information required by Department regulation. The local director shall hold a meeting between all parties within seven business days to gather any information necessary to determine the validity of the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards and licensed child-placing agencies and foster parents and the appropriateness of any recommendations for corrective action made by the family services specialist and foster care supervisor or assigned designee. A summary of the meeting shall be documented in writing by the family services specialist after approval by the foster care supervisor or assigned designee. Following such meeting and documentation, the local director shall issue to all parties written findings and, when applicable, recommendations for corrective action.

Code 1950, § 63-243; 1968, c. 578, § 63.1-206; 2002, c. [747](#); 2008, cc. [241](#), [308](#); 2019, c. [336](#).

§ 63.2-903. Entrustment agreements; adoption.

A. Whenever a local board accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § [63.2-900](#), or a licensed child-placing agency accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § [63.2-1817](#), in the city or county juvenile and domestic relations district court a petition for approval of the entrustment agreement (i) shall be filed within a reasonable period of time, not to exceed 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to his home within that period; (ii) shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and (iii) may be filed in the case of a permanent entrustment agreement

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which provides for the termination of all parental rights and responsibilities with respect to the child.

B. For purposes of §§ [63.2-900](#), [63.2-1817](#) and this section, a parent who is less than 18 years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement that provides for the termination of all parental rights and responsibilities, and shall be as fully bound thereby as if such parent had attained the age of 18 years. An entrustment agreement for the termination of all parental rights and responsibilities shall be executed in writing and notarized. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the father of a child born out of wedlock if the identity of the father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered or certified mail to his last known address and fails to object to the entrustment within 15 days of mailing of such notice. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the father is reasonably ascertainable. For purposes of determining whether the identity of the father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the mother and the father.

C. An entrustment agreement for the termination of parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when such father has been convicted of a violation of subsection A of § [18.2-61](#), § [18.2-63](#), subsection B of § [18.2-366](#), or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

D. A child may be placed for adoption by a licensed child-placing agency or a local board, in accordance with the provisions of § [63.2-1221](#).

Code 1950, §§ 63-73, 63-241; 1952, c. 409; 1960, c. 331; 1968, cc. 466, 578, 585, §§ 63.1-56, 63.1-204; 1972, c. 50; 1974, c. 620; 1975, cc. 248, 406; 1977, cc. 559, 562, 634, 645; 1978, cc. 730, 734, 735; 1981, c. 259; 1984, c. 734; 1985, cc. 18, 285; 1986, cc. 88, 281; 1988, c. 882; 1989, c. 647; 1991, c. 34; 1994, c. [865](#); 1995, cc. [772](#), [826](#); 1999, cc. [889](#), [1028](#); 2000, c. [830](#); 2002, c. [747](#); 2004, c. [815](#); 2005, c. [890](#); 2007, cc. [606](#), [623](#).

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§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner. Notwithstanding any other provision of law, the Commissioner shall have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency. Pursuant to such authority, the Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-placing agency in a foster home or children's residential facility that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

Code 1950, §§ 63-242, 63-248; 1968, c. 578, §§ 63.1-205, 63.1-211; 1989, c. 307; 2002, c. [747](#); 2008, cc. [475](#), [483](#); 2016, c. [631](#); 2017, c. [193](#); 2019, cc. [336](#), [446](#).

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§ 63.2-904.1. Intervention by Commissioner; corrective action plans; assumption of temporary control.

A. The Commissioner shall have the authority to create and enforce a corrective action plan for any local board that, in the Commissioner's discretion, (i) fails to provide foster care services or make placement and removal decisions in accordance with this title or Board regulations or (ii) takes any action or fails to act in a manner that poses a substantial risk to the health, safety, or well-being of any child under its supervision and control. The corrective action plan shall (a) include specific objectives that the local board must meet in order to comply with applicable laws and regulations and ensure the health, safety, and well-being of all children in its supervision and control and (b) set the date by which such objectives must be completed, which shall not extend beyond 90 days after implementation of the corrective action plan unless the Commissioner determines that the objectives of the corrective action plan cannot be reasonably accomplished within such time frame. During the time the corrective action plan is in effect, the Commissioner may direct Department staff to provide assistance to the local board, monitor its progress in meeting the objectives stated in the plan, and take any measures necessary to protect the health, safety, and well-being of children in the local board's supervision and control. The Commissioner shall provide regular updates to the chairman of the Board, chairman of the local board, and local director regarding the local board's progress in meeting the objectives of the corrective action plan.

Prior to implementing a corrective action plan, the Commissioner shall provide written notice of his intent to implement the corrective action plan and the reasons for which such plan was developed to the chairman of the Board, chairman of the local board, and local director. Upon request by the chairman of the Board, chairman of the local board, or local director, the Commissioner shall hold a hearing to determine whether a corrective action plan is appropriate.

B. If the local board fails to timely comply with the corrective action plan, the Commissioner shall have the authority to temporarily assume control over all or part of the local board's foster care services and associated funds. Upon assuming such control, the Commissioner may utilize Department staff or contract with private entities to provide foster care services in the locality served by the local board and manage funds appropriated for such purposes. For any period during which a local board is under the Commissioner's control, the Commissioner shall work with the local board and local director to make any adjustments necessary to facilitate the local board's resumption of control over its foster care services and funds. The Commissioner shall remit control of such foster care services and funds to the local board upon determining that the local board has made all adjustments necessary to ensure that foster care services are provided in compliance with state and federal law and

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regulations and in a manner that adequately protects the health, safety, and well-being of all children in its supervision and control.

C. Whenever the Commissioner assumes temporary control over a local board's foster care services and funds pursuant to this section, the amount of local funding made available for such services shall remain equal to or greater than the amounts available immediately prior to the Commissioner's assumption of temporary control. Additionally, the locality in which the local board is located shall be required to pay the local share of any costs associated with any services necessary to align the local board's foster care services with state and federal laws and regulations.

2019, c. [446](#).

§ 63.2-904.2. Complaint system.

The Commissioner shall establish and maintain mechanisms to receive reports and complaints from foster parents, interested stakeholders, and other citizens of the Commonwealth regarding violations of laws or regulations applicable to foster care and any other matters affecting the health, safety, or well-being of children in foster care. Such mechanisms shall include establishing a statewide, toll-free hotline to be administered by the Department; publicizing the existence of such hotline; and enhancing electronic communication with the Department for the receipt of reports or complaints.

Reports and complaints received through the foster care hotline or other mechanisms established pursuant to this section shall be investigated pursuant to Board regulations. All information received or maintained by the Department in connection with such reports, complaints, or investigations shall be confidential and not subject to the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.), except that such information may be relayed and used on a confidential basis pursuant to Board regulations for the purposes of investigation and to protect the health, safety, and well-being of children in foster care.

2019, c. [446](#).

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§ 63.2-905. Foster care services.

Foster care services are the provision of a full range of casework, treatment, and community services, including but not limited to independent living services, for a planned period of time to a child who is abused or neglected as defined in § [63.2-100](#) or in need of services as defined in § [16.1-228](#) and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board or the public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board or licensed child placing agency, or (iv) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § [63.2-1305](#) and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance Program set forth in § [63.2-1306](#). Foster care services also include the provision and restoration of independent living services to a person who is over the age of 18 years but who has not yet reached the age of 21 years, in accordance with § [63.2-905.1](#).

1977, cc. 562, 634, § 63.1-55.8; 1986, c. 281; 1994, c. [865](#); 2002, c. [747](#); 2008, cc. [475](#), [483](#); 2013, c. [5](#); 2018, cc. [769](#), [770](#); 2021, Sp. Sess. I, c. [254](#).

§ 63.2-905.1. Independent living services.

Local departments and licensed child-placing agencies shall provide independent living services to any person between 18 and 21 years of age who is in the process of transitioning from foster care to self-sufficiency. Any person who was committed or entrusted to a local board or licensed child-placing agency may choose to discontinue receiving independent living services any time before his twenty-first birthday in accordance with regulations adopted by the Board. The local board or licensed child-placing agency shall restore independent living services at the request of that person provided that (i) the person has not yet reached 21 years of age and (ii) the person has entered into a written agreement, less than 60 days after independent living services have been discontinued, with the local board or licensed child-placing agency regarding the terms and conditions of his receipt of independent living services.

Local departments and licensed child-placing agencies shall provide independent living services to any person between 18 and 21 years of age who (a) was in the custody of the local department of social services immediately prior to his commitment to the Department of Juvenile Justice, (b) is in the process of transitioning from a commitment to the Department of Juvenile Justice to self-sufficiency, and (c) provides written notice of his intent to receive independent living services and enters into a written agreement for the provision of independent living services, which sets forth the terms and conditions of the provision of

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independent living services, with the local board or licensed child-placing agency within 60 days of his release from commitment to the Department of Juvenile Justice.

Local departments shall provide any person who chooses to leave foster care or terminate independent living services before his twenty-first birthday written notice of his right to request restoration of independent living services in accordance with this section by including such written notice in the person's transition plan. Such transition plan shall be created within 90 days prior to the person's discharge from foster care. Local departments and licensed child-placing agencies may provide independent living services as part of the foster care services provided to any child 14 years of age or older. All independent living services shall be provided in accordance with regulations adopted by the Board.

2004, c. [196](#); 2008, cc. [187](#), [475](#), [483](#); 2010, c. [257](#); 2013, cc. [5](#), [362](#), [564](#); 2014, cc. [94](#), [134](#).

§ 63.2-905.2. Security freezes and annual credit checks for children in foster care.

A. Local departments shall request the placement of a security freeze pursuant to the provisions of § [59.1-444.3](#) on the credit report or record of any child who is less than 16 years of age and has been in foster care for at least six months in order to prevent cases of identity theft and misuse of personal identifying information. The local department shall request removal of the security freeze (i) upon the child's removal from foster care, (ii) upon the child's request if the child is 16 years of age or older, or (iii) upon a determination by the local department that removal of the security freeze is in the best interest of the child.

B. Local departments shall conduct annual credit checks on all children 14 years of age or older but less than 18 years of age who are in foster care to identify cases of identity theft or misuse of personal identifying information of such children. Local departments shall resolve, to the greatest extent possible, cases of identity theft or misuse of personal identifying information of foster care children identified pursuant to this section.

2012, c. [432](#); 2016, c. [631](#); 2019, cc. [676](#), [677](#).

§ 63.2-905.3. Documents provided to foster care youth.

When a child is leaving foster care upon reaching 18 years of age, unless the child has been in foster care for less than six months, the local department shall ensure that the child has, if eligible to receive, (i) a certified birth certificate, (ii) a social security card, (iii) health insurance information, (iv) a copy of the child's health care records, and (v) a driver's license or identification card issued by the Commonwealth.

2016, c. [631](#).

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§ 63.2-905.4. Individuals in foster care on eighteenth birthday; enrollment in Commonwealth's program of medical assistance.

Local departments shall ensure that any individual who was in foster care on his eighteenth birthday is enrolled, unless the individual objects, in the Commonwealth's program of medical assistance established pursuant to § [32.1-325](#), provided that such individual is eligible to receive health care services under the Commonwealth's program of medical assistance and was enrolled in such program on his eighteenth birthday. Prior to enrollment, local departments shall provide such individuals with basic information about health care services provided under the state plan for medical assistance services and inform such individuals that, if eligible, they will be enrolled in the Commonwealth's program of medical assistance unless they object.

2017, c. [203](#).

§ 63.2-905.5. Survey of children aging out of foster care.

The Department shall, in coordination with the Commission on Youth, develop a process and standardized survey to gather feedback from children aging out of foster care. The survey shall include requests for information regarding the child's experience with and opinion of the Commonwealth's foster care services, recommendations for improvement of such services, the amount of time the child spent in the foster care system, and any other information deemed relevant by the Department of Social Services or the Commission on Youth.

2017, c. [187](#).

§ 63.2-906. Foster care plans; permissible plan goals; court review of foster children.

A. Each child who is committed or entrusted to the care of a local board or to a licensed child-placing agency or who is placed through an agreement between a local board and the parent, parents or guardians, where legal custody remains with the parent, parents or guardians, shall have a foster care plan prepared by the local department, the child welfare agency, or the family assessment and planning team established pursuant to § [2.2-5207](#), as specified in § [16.1-281](#). The representatives of such local department, child welfare agency, or team shall (i) involve in the development of the plan the child's parent(s), except when parental rights have been terminated or the local department or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, relatives

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and fictive kin who are interested in the child's welfare, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the child welfare agency placed the child and (ii) for any child for whom reunification remains the goal, meet and consult with the child's parent(s) or other person standing in loco parentis, provided that the parent(s) or other person has been located and parental rights have not been terminated, no less than once every two months and at all critical decision-making points throughout the child's foster care case. If reunification is not the goal for the child, the local board, child welfare agency, or team shall provide information to the child's parents regarding the parents' option to voluntarily terminate parental rights, unless a parent's parental rights have been terminated. The representatives of such department, child welfare agency, or team shall involve the child in the development of the plan if (a) the child is 12 years of age or older or (b) the child is younger than 12 years of age and such involvement is consistent with the best interests of the child. In cases where either the parent(s) or child is not involved in the development of the plan, the department, child welfare agency, or team shall include in the plan a full description of the reasons therefor in accordance with § [16.1-281](#).

A court may place a child in the care and custody of (1) a public agency in accordance with § [16.1-251](#) or [16.1-252](#) or (2) a public or licensed private child-placing agency in accordance with § [16.1-278.2](#), [16.1-278.4](#), [16.1-278.5](#), [16.1-278.6](#), or [16.1-278.8](#). Children may be placed by voluntary relinquishment in the care and custody of a public or private agency in accordance with § [16.1-277.01](#) or §§ [16.1-277.02](#) and [16.1-278.3](#). Children may be placed through an agreement where legal custody remains with the parent, parents or guardians in accordance with §§ [63.2-900](#) and [63.2-903](#), or § [2.2-5208](#).

B. Each child in foster care shall be assigned a permanent plan goal to be reviewed and approved by the juvenile and domestic relations district court having jurisdiction of the child's case. Permissible plan goals are to:

1. Transfer custody of the child to his prior family;
2. Transfer custody of the child to a relative other than his prior family or to fictive kin for the purpose of establishing eligibility for the Federal-Funded Kinship Guardianship Assistance program pursuant to § [63.2-1305](#) or the State-Funded Kinship Guardianship Assistance program pursuant to § [63.2-1306](#);
3. Finalize an adoption of the child;
4. Place a child who is 16 years of age or older in permanent foster care;
5. Transition to independent living if, and only if, the child is admitted to the United States as a refugee or asylee; or

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6. Place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with subsection A2 of § [16.1-282.1](#).

C. Each child in foster care shall be subject to the permanency planning and review procedures established in §§ [16.1-281](#), [16.1-282](#), and [16.1-282.1](#).

2002, c. [747](#); 2005, c. [653](#); 2008, cc. [475](#), [483](#); 2009, c. [124](#); 2011, c. [730](#); 2016, c. [631](#); 2019, c. [446](#); 2020, cc. [224](#), [366](#), [934](#); 2021, Sp. Sess. I, cc. [254](#), [535](#).

§ 63.2-906.1. Qualified residential treatment programs.

A. In cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § [63.2-100](#), the foster care plan shall include (i) a description of the reasonable and good faith efforts made by the local department to identify and include on the child's family and permanency team all appropriate biological relatives, fictive kin, professionals, and, if the child is 14 years of age or older, members of the child's case planning team that were selected by the child in accordance with subsection A of § [16.1-281](#); (ii) contact information for all members of the child's family and permanency team and for other family members and fictive kin; (iii) evidence that all meetings of the family and permanency team are held at a time and place convenient for the child's family; (iv) if reunification is the goal for the child, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team; (v) the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § [63.2-100](#) and evidence that such assessment was conducted in conjunction with the child's family and permanency team; (vi) the placement preferences of the child and the family and permanency team with recognition that the child should be placed with his siblings unless the court finds that such placement is contrary to the best interest of the child; and (vii) if the placement preferences of the child and the family and permanency team differ from the placement recommended in the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § [63.2-100](#), the reasons why the preferences of the child and the family and permanency team were not recommended.

B. In all cases in which a child is placed by a local board or licensed child-placing agency in a qualified residential treatment program as defined in § [63.2-100](#), a hearing shall be held in accordance with the provisions of subsection E of § [16.1-281](#) within 60 days of such placement.

C. If any child 13 years of age or older is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or any child 12 years of age or younger is placed in a qualified residential treatment program for more than six consecutive or nonconsecutive months, the Commissioner shall submit to the federal

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Secretary of Health and Human Services (i) the most recent versions of the evidence and documentation required under subdivision E 2 of § [16.1-281](#) and (ii) a written approval, signed by the Commissioner, for the continued placement of the child in the qualified residential treatment program.

2019, cc. [282](#), [688](#).

§ 63.2-907. Administrative review of children in foster care.

Each local board shall establish and keep current a social service plan with service objectives and shall provide the necessary social services for achievement of a permanent home for each child for whom it has care and custody or has an agreement with the parents or guardians to place in accordance with regulations adopted by the Board. Each local board shall review the cases of children placed through an agreement or in its custody in accordance with the regulations adopted by the Board. Each local board shall review the cases of children placed through an agreement or in its custody on a planned basis to evaluate the current status and effectiveness (i) of the service plan's objectives and (ii) of the services being provided for each child in custody, which are directed toward the immediate care of and planning for permanency for the child, in accordance with policies of the Board.

The Department shall establish and maintain (a) a system to review and monitor compliance by local boards with the policies adopted by the Board and (b) a tracking system of every child in the care and custody of or placed by local boards in order to monitor the effectiveness of service planning, service objectives and service delivery by the local boards that shall be directed toward the achievement of permanency for children in foster care. As part of the system to review and monitor compliance by local boards, the Department shall establish and maintain an online dashboard, to be updated quarterly, that is accessible by local boards. Such dashboard shall be categorized by local board and include information regarding (1) the number of children who did not receive all required caseworker visits and the amount of time that has lapsed since each child's last visit; (2) the number of children placed in children's residential facilities; (3) the number of children who have been in foster care for more than 24 months, 36 months, and 48 months; (4) safety concerns identified in case reviews and whether such concerns have been alleviated; (5) the number of foster care caseworkers with caseloads exceeding the standard established pursuant to § [63.2-913.1](#); (6) the number of children in foster care to whom a caseworker with a caseload exceeding the standard set forth in § [63.2-913.1](#) has been assigned; and (7) the turnover rate of entry-level and experienced foster care caseworkers. Local boards shall provide to the Department any data and information necessary to populate the dashboard.

The Board shall adopt regulations necessary to implement the procedures and policies set out in this section. The Board shall establish as a goal that at any point in time the number of

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children who are in foster care for longer than twenty-four months shall not exceed 5,500 children.

1977, c. 634, § 63.1-56.2; 1982, c. 171; 1994, c. [865](#); 2002, c. [747](#); 2019, c. [446](#).

§ 63.2-908. Permanent foster care placement.

A. Permanent foster care placement means the place in which a child has been placed pursuant to the provisions of §§ [63.2-900](#), [63.2-903](#) and this section with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § [16.1-251](#) or § [63.2-1517](#). A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

B. A local department or a licensed child-placing agency shall have authority pursuant to a court order to place a child who is 16 years of age or older over whom it has legal custody in a permanent foster care placement where the child shall remain until attaining majority or thereafter, until the age of 21 years, if such placement is a requisite to providing funds for the care of such child, so long as the child is a participant in an educational, treatment or training program approved pursuant to regulations of the Board. No such child shall be removed from the physical custody of the foster parents in the permanent care placement except upon order of the court or pursuant to § [16.1-251](#) or § [63.2-1517](#). The department or agency so placing a child shall retain legal custody of the child. A court shall not order that a child be placed in permanent foster care unless it finds that (i) diligent efforts have been made by the local department to place the child with his natural parents and such efforts have been unsuccessful, and (ii) diligent efforts have been made by the local department to place the child for adoption and such efforts have been unsuccessful or adoption is not a reasonable alternative for a long-term placement for the child under the circumstances.

C. Unless modified by the court order, the foster parent in the permanent foster care placement shall have the authority to consent to surgery, entrance into the armed services, marriage, application for a motor vehicle and driver's license, application for admission into an institution of higher education, and any other such activities that require parental consent and shall have the responsibility for informing the placing department or agency of any such actions.

D. Any child placed in a permanent foster care placement by a local department shall, with the cooperation of the foster parents with whom the permanent foster care placement has been made, receive the same services and benefits as any other child in foster care pursuant to §§ [63.2-319](#), [63.2-900](#) and [63.2-903](#) and any other applicable provisions of law.

E. The Board shall establish minimum standards for the utilization, supervision and evaluation of permanent foster care placements.

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F. The rate of payment for permanent foster care placements by a local department shall be in accordance with standards and rates established by the Board. The rate of payment for such placements by other licensed child-placing agencies shall be in accordance with standards and rates established by the individual agency.

G. If the child has a continuing involvement with his natural parents, the natural parents should be involved in the planning for a permanent placement. The court order placing the child in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the natural parents.

H. Any change in the placement of a child in permanent foster care or the responsibilities of the foster parents for that child shall be made only by order of the court which ordered the placement pursuant to a petition filed by the foster parents, local department, licensed child-placing agency or other appropriate party.

1977, c. 559, § 63.1-206.1; 1978, c. 671; 1984, c. 70; 2002, c. [747](#); 2016, c. [631](#).

§ 63.2-909. Child support for child placed in foster care by court.

Pursuant to § [16.1-290](#), responsible persons shall pay child support for a child placed in foster care from the date that custody was awarded to the local department. The court order shall state the names of the responsible persons obligated to pay support, and either specify the amount of the support obligation pursuant to §§ [20-108.1](#) and [20-108.2](#) or indicate that the Division of Child Support Enforcement will establish the amount of the support obligation. In fixing the amount of support, the court or the Division of Child Support Enforcement shall consider the extent to which the payment of support by the responsible person may affect the ability of such responsible person to implement a foster care plan developed pursuant to § [16.1-281](#).

1995, c. [817](#), § 63.1-204.2; 2002, c. [747](#).

§ 63.2-910. Child support for child placed in foster care where legal custody remains with parent or guardian.

Responsible persons shall pay child support for a child placed in foster care through an agreement where legal custody remains with the parent or guardian pursuant to subdivision A 4 of § [16.1-278.2](#) or § [63.2-900](#), from the date that the child was placed in foster care. The agreement between the parents and the local board shall include provisions for the payment of child support. In fixing the amount of support, the court, the Division of Child Support Enforcement, and the local board shall consider the extent to which the payment of support by the responsible person may affect the ability of such responsible person to implement a

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foster care plan. If the responsible person fails or refuses to pay such sum on a timely basis, the local board may petition the juvenile court to order such payment.

1995, c. [817](#), § 63.1-204.3; 1997, c. [420](#); 2002, c. [747](#); 2009, c. [124](#).

§ 63.2-910.1. Acceptance of children by local departments of social services.

A local department of social services has the authority to take custody of abandoned children, to arrange appropriate placements for abandoned children, including foster care, and to institute proceedings for the termination of parental rights of abandoned children as provided in this title and Title 16.1.

2003, cc. [816](#), [822](#).

§ 63.2-910.2. Petition to terminate parental rights.

A. If a child has been in foster care under the responsibility of a local board for 15 of the most recent 22 months or if the parent of a child in foster care has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; or (ii) felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense, the local board shall file a petition to terminate the parental rights of the child's parents and concurrently identify, recruit, process, and approve a qualified family for adoption of the child, unless:

1. At the option of the local board, the child is being cared for by a relative;
2. The local board has determined that the filing of such a petition would not be in the best interests of the child and has documented a compelling reason for such determination in the child's foster care plan, such as (i) a relative has shown the will and ability to care for the child or (ii) the parent's incarceration or participation in a court-ordered residential substance abuse treatment program constitutes the primary factor in the child's placement in foster care, and termination of parental rights is not in the child's best interests; or
3. The local board has not provided to the family of the child, within the time period established in the child's foster care plan, services deemed necessary for the child's safe return home or has not otherwise made reasonable efforts to return the child home, if required under § 473(a)(15)(B)(ii) of Title IV-E of the Social Security Act (42 U.S.C. § 673).

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B. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

2017, c. [190](#); 2021, Sp. Sess. I, c. [535](#).

§ 63.2-911. Liability insurance for foster parents.

The Department may provide liability insurance for civil matters for persons providing basic foster care services in foster homes, as defined in §§ [63.2-100](#) and [63.2-905](#), that are approved by local boards for children in their custody or children who the board has entered into an agreement to place where legal custody remains with the parents or guardians.

1978, c. 291, § 63.1-56.3; 1994, c. [865](#); 2002, c. [747](#).

§ 63.2-912. Visitation of child placed in foster care.

The circuit courts and juvenile and domestic relations district courts shall have the authority to grant visitation rights to the natural parents, siblings, and grandparents of any child entrusted or committed to foster care if the court finds (i) that the parent, sibling, or grandparent had an ongoing relationship with the child prior to his being placed in foster care and (ii) it is in the best interests of the child that the relationship continue. The order of the court committing the child to foster care shall state the nature and extent of any visitation rights granted as provided in this section.

1985, c. 583, § 63.1-204.1; 2002, c. [747](#); 2008, c. [188](#).

§ 63.2-913. Establishment of minimum training requirements.

The Department shall, pursuant to Board regulations, establish minimum training requirements and shall provide educational programs for foster and adoption workers employed by the local department and their supervisors.

2008, cc. [133](#), [700](#).

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§ 63.2-913.1. Caseload standard.

The Department shall, pursuant to Board regulations, establish a caseload standard that limits the amount of foster care cases that may be assigned to each foster care caseworker. Such caseload standard shall be reviewed and updated, as appropriate, annually on the basis of the time and work necessary to effectively manage each foster care case.

2019, c. [446](#).

§ 63.2-914. Not in effect.

Not in effect.

§ 63.2-915. Appeals to Commissioner.

A. Pursuant to 42 U.S.C. § 671 (a)(12), any individual whose claim for benefits available pursuant to 42 U.S.C. § 670 et seq. or whose claim for benefits pursuant to § [63.2-905](#) is denied or is not acted upon by the local department with reasonable promptness shall have the right to appeal to the Commissioner.

B. The Commissioner shall provide an opportunity for a hearing, reasonable notice of which shall be given in writing to the applicant or recipient and to the proper local board in such manner and form as the Commissioner may prescribe. The Commissioner may make or cause to be made an investigation of the facts. The Commissioner shall give fair and impartial consideration to testimony of witnesses, or other evidence produced at the hearing, reports by the local board and local director or of investigations made or caused to be made by the Commissioner, or any facts that the Commissioner may deem proper to enable him to decide fairly the appeal or review. The decision of the Commissioner shall be binding and considered a final agency action for purposes of judicial review of such action pursuant to the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.).

C. The Commissioner may delegate the duty and authority to consider and make determinations on any appeal filed in accordance with this section to duly qualified officers.

D. The Board shall promulgate regulations to implement the provisions of this section.

2013, c. [437](#).

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§ 63.2-916. Notice of developmental disabilities.

The local department of social services shall notify the appropriate community services board as soon as it is known that a child in the foster care system has a developmental disability so that the community services board may screen the child for placement on the statewide developmental disability waiver waiting list.

2019, c. [301](#).

§ 63.2-917. Fostering Futures program; established.

The Fostering Futures program is established to provide services and support to individuals 18 years of age or older but less than 21 years of age who were in foster care upon turning 18 years of age. Such services and support shall be designed to assist the program participant in transitioning to adulthood, becoming self-sufficient, and creating permanent, positive relationships. The program is voluntary and shall at all times recognize and respect the autonomy of the participant. The Fostering Futures program shall not be construed to abrogate any other rights that a person 18 years of age or older may have as an adult under state law.

2020, cc. [95](#), [732](#).

§ 63.2-918. Definitions.

For purposes of this article:

"Case plan" means the plan developed by the local department for a program participant in accordance with 42 U.S.C. § 675(1).

"Child" means an individual who is (i) less than 18 years of age or (ii) for purposes of the Fostering Futures program set forth in this article, less than 21 years of age and meets the eligibility criteria set forth in § [63.2-919](#).

"Fostering Futures" means the services and support available to individuals between 18 and 21 years of age who are participating in the Fostering Futures program.

"Local department" means the local department of social services under the local board having care and custody of the program participant when he reached 18 years of age.

"Program participant" means an individual who meets the eligibility criteria set forth in § [63.2-919](#).

"Voluntary continuing services and support agreement" means a binding written agreement entered into by the local department and program participant in accordance with § [63.2-921](#).

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§ 63.2-919. Fostering Futures program; eligibility.

The Fostering Futures program is available, on a voluntary basis, to an individual between 18 and 21 years of age who:

1. Was (i) in the custody of a local department immediately prior to reaching 18 years of age, remained in foster care upon turning 18 years of age, and entered foster care pursuant to a court order; or (ii) in the custody of a local department immediately prior to commitment to the Department of Juvenile Justice and is transitioning from such commitment to self-sufficiency; and
2. Is (i) completing secondary education or an equivalent credential; (ii) enrolled in an institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote employment or remove barriers to employment; or (v) incapable of doing any of the activities described in clauses (i) through (iv) due to a medical condition, which incapability is supported by regularly updated information in the program participant's case plan.

2020, cc. [95](#), [732](#).

§ 63.2-920. Continuing services and support.

Continuing services and support provided under the Fostering Futures program shall include the following, where necessary:

1. Medical care under the state plan for medical assistance;
2. Housing, placement, and support in the form of continued foster care maintenance payments in an amount not less than the rate set immediately prior to the program participant's exit from foster care. Policies and decisions regarding housing options shall take into consideration the program participant's autonomy and developmental maturity, and safety assessments of such living arrangements shall be age-appropriate and consistent with federal guidance on supervised settings in which program participants live independently. For program participants residing in an independent living setting, the local department may send all or part of the foster care maintenance payments directly to the program participant, as agreed upon by the local department and the program participant. For program participants residing in a foster family home, foster care maintenance payments shall be paid to the foster parents; and

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3. Case management services, including a case plan that describes (i) the program participant's housing or living arrangement; (ii) the resources available to the program participant in the transition from the Fostering Futures program to independent adulthood; and (iii) the services and support to be provided to meet the program participant's individual goals, provided such services and support are appropriate for and consented to by the program participant. All case plans shall be developed in consultation with the program participant and, at the participant's option, with up to two members of the case planning team who are chosen by the program participant and are not a foster parent of or caseworker for such program participant. An individual selected by a program participant to be a member of the case planning team may be removed from the team at any time if there is good cause to believe that the individual would not act in the best interests of the program participant.

2020, cc. [95](#), [732](#).

§ 63.2-921. Voluntary continuing services and support agreement; services provided; service worker; duties.

A. In order to participate in the Fostering Futures program, the eligible program participant shall enter into a written voluntary continuing services and support agreement with the local department. Such agreement shall include, at a minimum, the following:

1. A requirement that the program participant maintain eligibility to participate in the Fostering Futures program in accordance with the provisions of § [63.2-919](#) for the duration of the voluntary continuing services and support agreement;
2. A disclosure to the program participant that participation in the Fostering Futures program is voluntary and that the program participant may terminate the voluntary continuing services and support agreement at any time;
3. The specific conditions that may result in the termination of the voluntary continuing services and support agreement and the program participant's early discharge from the Fostering Futures program; and
4. The program participant's right to appeal the denial or delay of a service required in the case plan.

B. The services and support to be provided to the program participant pursuant to the voluntary continuing services and support agreement shall begin no later than 30 days after both the program participant and the local department sign the voluntary continuing services and support agreement in accordance with § [63.2-921](#).

C. The local department shall assign a service worker for each participant in the Fostering Futures program to provide case management services. Every service worker shall have

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specialized training in providing transition services and support for program participants and knowledge of resources available in the community.

D. The local department shall make continuing efforts to achieve permanency and create permanent connections for all program participants.

E. The local department shall fulfill all case plan obligations consistent with the applicable provisions of 42 U.S.C. § 675(1) for all program participants.

F. Upon the signing of the voluntary continuing services and support agreement by the program participant and the local department, the local department shall conduct a redetermination of income eligibility for purposes of Title IV-E of the federal Social Security Act, 42 U.S.C. § 672.

2020, cc. [95](#), [732](#).

§ 63.2-922. Termination of voluntary continuing services and support agreement; notice; appeal.

A. A program participant may terminate the voluntary continuing services and support agreement at any time. Upon such termination, the local department shall provide the program participant with a written notice informing the program participant of the potential negative effects resulting from termination, the option to reenter the Fostering Futures program at any time before reaching 21 years of age, and the procedures for reentering if the participant meets the eligibility criteria of § [63.2-919](#).

B. If the local department determines that the program participant is no longer eligible to participate in the Fostering Futures program under § [63.2-919](#), the local department shall terminate the voluntary continuing services and support agreement and cease the provision of all services and support to the program participant. The local department shall give written notice to the program participant 30 days prior to termination that the voluntary continuing services and support agreement will be terminated and provide (i) an explanation of the basis for termination, (ii) information about the process for appealing the termination, (iii) information about the option to enter into another voluntary continuing services and support agreement once the program participant reestablishes eligibility under § [63.2-919](#), and (iv) information about and contact information for community resources that may benefit the program participant, including state programs established pursuant to 42 U.S.C. § 677. Academic breaks in postsecondary education attendance, such as semester and seasonal breaks, and other transitions between eligibility requirements under § [63.2-919](#), including education and employment transitions not longer than 30 days, shall not be a basis for termination.

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C. Appeals of terminations of voluntary continuing services and support agreements or denials or delays of the provision of services specified in the agreement shall be conducted in accordance with the provisions of § [63.2-915](#) and Board regulations.
2020, cc. [95](#), [732](#).

§ 63.2-923. Court proceedings; administrative reviews.

A local department that enters into a voluntary continuing services and support agreement with a program participant shall file a petition for review of the agreement and the program participant's case plan in accordance with § [16.1-283.3](#). If no subsequent hearings are held by the court to review the agreement and case plan after the initial review hearing held pursuant to § [16.1-283.3](#), the local department shall conduct administrative reviews of the case for the remaining term of the voluntary continuing services and support agreement no less than every six months.

2020, cc. [95](#), [732](#).