

# **CWS1041W: Legal Principles in Child Welfare**

## **LEARNER HANDOUTS**



VIRGINIA DEPARTMENT OF  
SOCIAL SERVICES

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## AGENDA

### **DAY ONE:**

- Introductions
- Clash of Values
- Due Process
- Writing a Strong Affidavit
- Filing an Abuse/Neglect Petition
- Foster Care Plans
- Foster Care Timeline
- Termination of Parental Rights
- Rules of Evidence

### **DAY TWO:**

- Hearsay
- Effective Testimony
- Preparing for Court and Tips for Testifying
- Direct Examination vs. Cross Examination
- Tactics of Defense Counsel
- Expert Witnesses
- Appeals
- Administrative Appeals

**LEARNING OBJECTIVES**

AT THE END OF THIS TRAINING SESSION, THE LEARNER SHOULD BE ABLE TO:

- Interpret the legal framework governing child welfare services and apply it to real-life scenarios.
- Analyze the implications of legal and ethical issues related to child welfare involvement and evaluate the consequences of different court actions.
- Evaluate the roles of those involved in legal practices in child welfare and be able to effectively propose solutions in environments with other professionals, to improve outcomes for children and families.
- Demonstrate knowledge of relevant laws and regulations in child welfare and the ability to articulate how these laws apply to specific cases.
- Identify potential legal risks in child welfare cases and develop strategies to mitigate these risks.
- Apply knowledge of legal principles and procedural rules to prepare comprehensive and accurate court documents, such as petitions, affidavits, and court reports, and give effective testimony in court.
- Synthesize knowledge of legal principles and child welfare policies to develop effective case management plans that promote child safety, wellbeing, and permanency.

## Code of Virginia

### § 16.1-228. Definitions.

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

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § [18.2-248](#);
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. No child whose parent or other person responsible for his care allows the child to engage in independent activities without adult supervision shall for that reason alone be considered to be an abused or neglected child, provided that (a) such independent activities are appropriate based on the child's age, maturity, and physical and mental abilities and (b) such lack of supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child. Such independent activities include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time. Nothing in this subdivision shall be construed to limit the provisions of § [16.1-278.4](#);
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care, or an intimate partner of such parent or person, commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

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

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

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

## TIPS FOR WRITING AN EFFECTIVE AFFIDAVIT

1. **Rule of PRIMACY:** What we read or hear FIRST affects everything we hear AFTER.
2. Your affidavit is what the Judge reads first. Remember that the Judge knows nothing about the case. Start far enough back with the facts to **set up the context** in which the emergency arises.
3. Use the affidavit as an **outline of your testimony**; make sure you can prove allegations.
4. **Write in first person.**  
i.e.: *"I spoke to Ms. Smith";*  
NOT: *"Worker spoke with Ms. Smith"*
5. **Use commas properly!**  
i.e.: *"How to cook crack and clean crab."*  
Versus: *"How to cook, crack, and clean crab."*  
i.e.: *"Let's eat Grandma."*  
Versus: *"Let's eat, Grandma."*
6. **Write in complete sentences.** Proof your work for typos and grammar. Sloppy writing reflects sloppy casework.
7. **Identify the cast** of characters and the relationships in the first couple of paragraphs.
8. Lay the facts out **logically and sequentially**. Don't jump around in time.  
**Give exact dates** of significant activity to give a sense of how quickly or slowly people acted.

9. **Avoid conclusions** like “the house was filthy” and “Ms. Jones was agitated”

Instead, describe what you observed, heard, smelled, etc.:

i.e.: *“Roaches were crawling on the walls, bags of garbage were strewn across the floor, and the house smelled like cat urine. Mrs. Jones was screaming and cursing unintelligibly and twirling the cat in circles by its tail.”*

Be as descriptive as possible!

10. **Avoid legal conclusions** like “child is abused”; state facts that support conclusion.

11. Explain the **reasonable efforts** you have made with the family prior to filing a petition in order to protect the child.

12. Explain **why less drastic alternatives aren’t available**.

13. If you took custody more than 4 hours prior, **state why you couldn’t file petition before** then.

i.e.: *“court was closed”*

14. Tell the court **what you’re asking for** (ex: removal or protective order)

## § 16.1-251. Emergency removal order.

A. A child may be taken into immediate custody and placed in shelter care pursuant to an emergency removal order in cases in which the child is alleged to have been abused or neglected. Such order may be issued ex parte by the court upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.
2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § [16.1-253](#).

If the petitioner fails to obtain an emergency removal order within four hours of taking custody of the child, the affidavit or sworn testimony before the judge or intake officer shall state the reasons therefor.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent 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 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; (iii) the parent 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 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; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § [16.1-283](#).

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.



"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"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.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."

B. Whenever a child is taken into immediate custody pursuant to an emergency removal order, a hearing shall be held in accordance with § [16.1-252](#) as soon as practicable, but in no event later than five business days after the removal of the child.

C. In the emergency removal order the court shall give consideration to temporary placement of the child with a person with a legitimate interest under the supervision of the local department of social services, until such time as the hearing in accordance with § [16.1-252](#) is held.

D. The local department of social services having "legal custody" of a child as defined in § [16.1-228](#) (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

1977, c. 559; 1984, c. 499; 1985, c. 584; 1986, c. 308; 1990, c. 769; 2000, c. [385](#); 2003, c. [508](#); 2017, c. [190](#); 2019, c. [434](#).

## Commonwealth of Virginia Va. Code § 16.1-251

DATE OF HEARING:

Juvenile and Domestic Relations District Court

STREET ADDRESS OF COURT

*In re:* .....

Present: ☐ Parent \_\_\_\_\_ ☐ Attorney for parent \_\_\_\_\_  
☐ MOTHER ☐ FATHER ☐ MOTHER ☐ FATHER

☐ Parent \_\_\_\_\_ ☐ Attorney for parent \_\_\_\_\_  
☐ MOTHER    ☐ FATHER                      ☐ MOTHER    ☐ FATHER

☐ Child ..... ☐ Guardian *ad litem* .....

☐ DSS Representative ☐ DSS Attorney

☐ Other ..... ☐ CASA .....

☐ Other \_\_\_\_\_ ☐ Other \_\_\_\_\_

It appearing that the above-named child is within the purview of the Juvenile and Domestic Relations District Court law, and is alleged to be abused or neglected in a petition supported by:

☐ an affidavit, ☐ the appropriate sworn testimony

and it further appearing to the Court under the circumstances existing at this time that:

1. [ ] the child would be subjected to an imminent threat to life or health to the extent that severe or irreparable injury would be likely to result if the child were returned to or left in the custody of his or her parents, guardian, legal custodian or other person standing *in loco parentis* pending a final hearing on the petition.

**BASED UPON:**

[ ] the facts alleged in the affidavit filed in this case, which is incorporated by reference.

[ ] the following facts: .....

AND

2. ☐ reasonable efforts have been made to prevent removal of the child from his or her home.

**OR**

- [ ] reasonable efforts are deemed to have been made to prevent removal of the child from his or her home because there was no reasonable opportunity to provide preventive services.

**OR**

- [ ] reasonable efforts to prevent removal of the child from his or her home are not required pursuant to Virginia Code § 16.1-251 A 2,

**BASED UPON:**

[ ] the facts alleged in the affidavit filed in this case, which is incorporated by reference.

[ ] the following facts: .....

3. ☐ The child was physically removed from the home prior to the entry of this order, on .....

DATE \_\_\_\_\_

AND there are no alternatives less drastic than removal of the child from his or her home as defined by the Code of Virginia, 1950, as amended, which could reasonably protect the child's life or health pending a final hearing on the petition.

The Court finds with respect to the Indian Child Welfare Act that the child is not an Indian child as defined in 25 U.S.C. § 1903(4) as no information is known or has been discovered that indicates the child is an Indian child. The Indian Child Welfare Act does not apply. The parties shall inform the Court if they subsequently receive any information that indicates the child is an Indian child.

THE COURT ORDERS THE FOLLOWING:

- A. That the child be taken into immediate custody and placed in shelter care.
- B. That temporary legal custody be awarded to: \_\_\_\_\_  
The department of social services, if awarded temporary legal custody, may change the placement of the child without further court order or requirement to comply with Virginia Code § 16.1-251, notwithstanding that the child has been placed with a natural parent.
- C. That the child be temporarily placed, under the supervision of the local department of social services pending the preliminary removal hearing, with: \_\_\_\_\_,  
consideration having been given to temporary placement of the child with a person with a legitimate interest.
- D. ☐ That the ☐ parent \_\_\_\_\_ ☐ parent \_\_\_\_\_ ☐ parents  
☐ guardian \_\_\_\_\_  
shall provide the names and contact information for all persons with a legitimate interest to the local department of social services.

IT IS FURTHER ORDERED that a preliminary removal hearing on the petition be held at this court on

\_\_\_\_\_ and that notice of this hearing be given to the parents, guardian, legal custodian  
DATE AND TIME  
or other person standing *in loco parentis*, the child if he or she is 12 years of age or older, and the guardian *ad litem* for the child.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE

Case No. ....

EXECUTED by taking the child into custody on ..... at ..... and placing the juvenile with  
DATE TIME

PERSON OR AGENCY GRANTED CUSTODY

DATE

TIME

DATE

SERVING OFFICER

BADGE NO., AGENCY AND JURISDICTION

for

SHERIFF

**RETURNS:** Each person was served according to law, as indicated below, unless not found.

NAME .....

ADDRESS .....

☐ PERSONAL SERVICE Tel. No. ....

Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)☐ Not found

SERVING OFFICER

DATE for

NAME .....

ADDRESS .....

☐ PERSONAL SERVICE Tel. No. ....

Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)☐ Not found

SERVING OFFICER

DATE for

NAME .....

ADDRESS .....

☐ PERSONAL SERVICE Tel. No. ....

Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)☐ Not found

SERVING OFFICER

DATE for

DATE OF HEARING

*In re:* .....

Present: ☐ Parent ..... ☐ Attorney for parent .....  
☐ MOTHER ☐ FATHER ☐ MOTHER ☐ FATHER

☐ Parent ..... ☐ Attorney for parent .....  
☐ MOTHER ☐ FATHER ☐ MOTHER ☐ FATHER

☐ Child ..... ☐ Guardian *ad litem* .....

☐ DSS Representative ..... ☐ DSS Attorney .....

☐ Other ..... ☐ CASA .....

☐ Other ..... ☐ Other .....

The Court finds with respect to the Indian Child Welfare Act that the child is not an Indian child as defined in 25 U.S.C. § 1903(4) as no information is known or has been discovered that indicates the child is an Indian child. The Indian Child Welfare Act does not apply. The parties shall inform the Court if they subsequently receive any information that indicates the child is an Indian child.

**THE COURT FINDS THAT THE CHILD IS WITHIN THE JURISDICTION OF THIS COURT AND, BASED UPON A PREPONDERANCE OF THE EVIDENCE, FINDS AS FOLLOWS:** Proper notice of this removal hearing has been given at least 24 hours in advance of this hearing to the guardian *ad litem* for the child, to the parents, guardian, legal custodian or other person standing *in loco parentis* to the child, and to the child, if he or she is 12 years of age or older. If applicable, diligent efforts have been made to locate an absent party, who cannot be found. All parties to the hearing who have made an appearance in this matter have been informed of their right to counsel in accordance with the applicable provisions of the Code of Virginia. The child and his or her parents, guardian, legal custodian or other person standing *in loco parentis* to the child have had the opportunity to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.

**THE COURT FURTHER FINDS**, under the circumstances existing at this time, that:

1. [ ] the child would be subject to an imminent threat to life or health to the extent that severe or irreparable injury would be likely to result if the child were returned to or left in the custody of his or her parents, guardian, legal custodian or other person standing *in loco parentis* pending a final hearing on the petition,  
BASED UPON:
- [ ] the facts contained in the affidavit filed in this case, which is incorporated by reference.
- [ ] the following facts: .....

AND

2. ☐ reasonable efforts have been made to prevent removal of the child from his or her home,  
**OR**  
☐ reasonable efforts are deemed to have been made to prevent removal of the child from his or her home because there was no reasonable opportunity to provide preventive services,  
**OR**  
☐ reasonable efforts to prevent removal of the child from his or her home are not required pursuant to Virginia Code § 16.1-252 E 2.
- BASED UPON:
- ☐ the facts contained in the affidavit filed in this case, which is incorporated by reference.
- ☐ the following facts: .....

3. [ ] The child was physically removed from the home prior to the entry of this order, on .....

DATE \_\_\_\_\_

**AND** there are no alternatives, as defined by the Code of Virginia, less drastic than removal of the child from his or her home which could reasonably protect the child's life or health pending a final hearing on the petition.



**THE COURT ORDERS THE FOLLOWING:**

A. That temporary legal custody be awarded to:

pending the entry of a dispositional order pursuant to Virginia Code § 16.1-278.2, with consideration having been given to the requirements of Virginia Code § 16.1-252 F 1 and placement in the temporary care and custody of a person with a legitimate interest. Placement of the child in the temporary care and custody of a person with a legitimate interest, shall be supervised by the local department of social services. The local department of social services, if awarded temporary legal custody, may change the placement of the child without further court order or requirement to comply with Virginia Code § 16.1-251, notwithstanding that the child has been placed with a natural parent.

B. ☐ That \_\_\_\_\_ shall initiate and complete the investigation required  
in accordance with the provisions of Virginia Code § 16.1-278.2 A1.  
AGENCY OR PERSON

C. [ ] That reasonable visitation be allowed between the child and his or her parents, guardian, legal custodian or other person standing *in loco parentis*, namely: .....

[ ] That no visitation be allowed between the child and his or her parents, guardian, legal custodian or other person standing *in loco parentis*, as such visitation would endanger the child's life or health.

D. [ ] That \_\_\_\_\_ shall provide the following  
AGENCY  
social services to the child and the temporary custodian: \_\_\_\_\_

E. That, if the Court orders the child to be placed in foster care, the local department of social service shall pursue child support in accordance with Virginia Code § 16.1-290.

F. ☐ That ☐ parent ..... ☐ parent ..... ☐ parents  
☐ guardian .....  
shall provide the names and contact information for all persons with a legitimate interest to the local department of social services.

G. ☐ Other: .....

**ADJUDICATION OF PETITION ALLEGING ABUSE OR NEGLECT:**

[ ] The Court finds, by a preponderance of the evidence, that the child is abused or neglected.

[ ] An objection having been made by .....  
pursuant to Virginia Code § 16.1-252 G to the Court's entering a finding with respect to the allegation of abuse or neglect,  
**an adjudicatory hearing is set for .....** **at .....** This ORDER shall  
remain in full force and effect pending the adjudicatory hearing.

**A dispositional hearing shall be held pursuant to Virginia Code § 16.1-278.2 on ..... at .....**

[ ] The local department of social services shall file a foster care plan pursuant to Virginia Code § 16.1-281 by \_\_\_\_\_  
DATE

DATE \_\_\_\_\_

JUDGE

Case No. ....

**EXECUTED** by taking the child into custody on ..... at ..... and placing the child with  
DATE TIME

..... on ..... at .....  
PERSON OR AGENCY GRANTED CUSTODY DATE TIME

.....  
DATE SERVING OFFICER

..... for .....  
BADGE NO., AGENCY AND JURISDICTION SHERIFF

**RETURNS:** Each person was served according to law, as indicated below, unless not found.

NAME .....	
.....	
ADDRESS .....	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No. ....
<input type="checkbox"/> NOT FOUND	
.....	
SERVING OFFICER	
for .....	

NAME .....	
.....	
ADDRESS .....	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No. ....
<input type="checkbox"/> NOT FOUND	
.....	
SERVING OFFICER	
for .....	

NAME .....	
.....	
ADDRESS .....	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No. ....
<input type="checkbox"/> NOT FOUND	
.....	
SERVING OFFICER	
for .....	





☐ 3. To allow \_\_\_\_\_ to come into the child's home

COURT-SELECTED INVESTIGATORY ENTITY

☐ at reasonable times selected by the investigatory entity

☐ \_\_\_\_\_

DATES AND TIMES

to visit the child and to inspect the fitness of the home and to determine the physical and emotional health of the child.

☐ 4. To allow visitation with the child by the following persons: \_\_\_\_\_

☐ 5. To refrain from acts of commission or omission which tend to endanger the child's life, health or normal development.

☐ 6. To refrain from the following contacts with the child: \_\_\_\_\_

☐ To leave the residence of the above-named child because the petitioner proved by a preponderance of the evidence that such person's probable future conduct would constitute a danger to the life or health of the child; and that there are no less drastic alternatives which could reasonably and adequately protect the child's life or health pending a final determination on the petition.

☐ 7. To grant the child possession of the companion animal described as \_\_\_\_\_

NAME/TYPE

☐ 8. \_\_\_\_\_

☐ Supplemental Sheet to Child Protective Order, DC-547, attached and incorporated by reference. No. of supplemental pages: \_\_\_\_\_

☐ **Ex Parte Proceedings Only:** It is further ORDERED that a preliminary protective order hearing be held at this court

on \_\_\_\_\_ at \_\_\_\_\_ and that the parents, guardian, legal custodian, other person standing *in loco parentis* to the child, the family or household member named above, and the child if he or she is 12 years of age or older be given notice of this hearing.

☐ No affidavit filed. The basis upon which this order is entered, including a summary of the allegations made and the Court's findings, is \_\_\_\_\_

The specific factual circumstances necessitating the issuance of this order are: \_\_\_\_\_

**ADJUDICATION OF PETITIONS ALLEGING ABUSE OR NEGLECT OR AT RISK OF ABUSE OR NEGLECT:**

- ☐ The Court finds, by a preponderance of the evidence, that:
- ☐ the child is abused or neglected.
  - ☐ the child is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian.
- ☐ An objection having been made by \_\_\_\_\_ pursuant to Virginia Code § 16.1-253 F to the Court's entering a finding with respect to the allegation of abuse or neglect, **an adjudicatory hearing is set for \_\_\_\_\_ at \_\_\_\_\_**. This ORDER shall remain in full force and effect pending the adjudicatory hearing.
- A dispositional hearing shall be held pursuant to Virginia Code § 16.1-278.2 on \_\_\_\_\_ at \_\_\_\_\_.**

**WARNINGS TO THE PERSON(S) SUBJECT TO THIS ORDER:**

Pursuant to Virginia Code § 18.2-308.1:4, you are prohibited from the purchase or transport of any firearm while this order is in effect. If you have a concealed handgun permit, you must immediately surrender that permit to the court entering this order. If you violate the conditions of this order, you may be sentenced to jail and/or ordered to pay a fine.

This order will be entered into the Virginia Criminal Information Network. A motion may be filed with the court at any time requesting a hearing to dissolve or modify this order. However, this order remains in full force and effect unless and until a subsequent order or the dispositional order is entered by the Court. Only the Court can change this order.

**FULL FAITH AND CREDIT:** If this order was issued after an adversarial hearing, this order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. § 2265).

**FEDERAL OFFENSES:** Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. § 2262). Federal law provides penalties for possessing, transporting, shipping or receiving any firearm or ammunition while subject to a qualifying protective order and under the circumstances specified in 18 U.S.C. § 922(g)(8).

☐ This ORDER is set for review on \_\_\_\_\_ at \_\_\_\_\_.

DATE

TIME

DATE

JUDGE

**RETURNS:** Each person was served according to law, as indicated below, unless not found.

Case No. ....

In re: .....

<b>PERSON (NO. 1) SUBJECT TO THIS ORDER:</b>		<b>PERSON (NO. 2) SUBJECT TO THIS ORDER:</b>	
NAME .....		NAME .....	
ADDRESS .....		ADDRESS .....	
<input type="checkbox"/> PERSONAL SERVICE	TELEPHONE NO. ....	<input type="checkbox"/> PERSONAL SERVICE	TELEPHONE NO. ....
<input type="checkbox"/> NOT FOUND		<input type="checkbox"/> NOT FOUND	
_____ SERVING OFFICER for _____ _____ DATE AND TIME		_____ SERVING OFFICER for _____ _____ DATE AND TIME	
Respondent's Description (for VCIN) RACE ..... SEX ..... DOB ..... HGT ..... WGT ..... EYES ..... HAIR ..... SSN ..... Telephone No. .... Relationship to Petitioner/Plaintiff ..... Distinguishing features .....		Respondent's Description (for VCIN) RACE ..... SEX ..... DOB ..... HGT ..... WGT ..... EYES ..... HAIR ..... SSN ..... Telephone No. .... Relationship to Petitioner/Plaintiff ..... Distinguishing features .....	
<b>PERSON AGE 12 OR OLDER PROTECTED BY ORDER:</b> (See form DC-621, NON-DISCLOSURE ADDENDUM.)		<b>FAMILY MEMBER OF PROTECTED PERSON:</b> (See form DC-621, NON-DISCLOSURE ADDENDUM.)	
NAME .....		NAME .....	
<input type="checkbox"/> PERSONAL SERVICE		<input type="checkbox"/> PERSONAL SERVICE	
<input type="checkbox"/> NOT FOUND		<input type="checkbox"/> NOT FOUND	
_____ SERVING OFFICER for _____ _____ DATE AND TIME		_____ SERVING OFFICER for _____ _____ DATE AND TIME	
<b>PETITIONER:</b> <input type="checkbox"/> See form DC-621, NON-DISCLOSURE ADDENDUM.		RELATIONSHIP TO PERSON PROTECTED BY ORDER <input type="checkbox"/> See form DC-621, NON-DISCLOSURE ADDENDUM.	
NAME .....		NAME .....	
<input type="checkbox"/> PERSONAL SERVICE		<input type="checkbox"/> PERSONAL SERVICE	
<input type="checkbox"/> NOT FOUND		<input type="checkbox"/> NOT FOUND	
_____ SERVING OFFICER for _____ _____ DATE AND TIME		_____ SERVING OFFICER for _____ _____ DATE AND TIME	

## § 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency, the local department of social services or child welfare agency shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § [2.2-5208](#) may be accepted by the court as the foster care plan if it meets the requirements of this section.

The representatives of such department or agency shall involve in the development of the plan the child's parent(s), except when parental rights have been terminated or the local department of social services or child welfare agency has made diligent efforts to locate the parent(s) and such parent(s) cannot be located, relatives 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 placed the child. The representatives of such department or agency shall involve a child who is 12 years of age or older in the development of the plan and, at the option of such child, up to two members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A child under 12 years of age may be involved in the development of the plan if 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 or agency shall include in the plan a full description of the reasons therefor.

The department or child welfare agency shall file the plan with the juvenile and domestic relations district court within 45 days following the transfer of custody or the board's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional 60 days. However, a foster care plan shall be filed in accordance with the provisions of § [16.1-277.01](#) with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within 45 days following transfer of custody to the board or agency or the board's placement of the child.

B. The foster care plan shall describe in writing (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians, and between the child and his siblings; (iv) the nature of the placement or placements which will be provided for the child, including an assessment of the stability of each placement, the services provided or plans for services to be provided to address placement instability or to prevent disruption of the placement, and a description of other placements that were considered for the child, if any, and reasons why such other placements were not provided; (v) for school-age children, the school placement of the child; (vi) for children 14 years of age and older, the child's needs and goals in the areas of counseling, education, housing, employment, and money management skills development, along with specific independent living services that will be provided to the child to help him reach these goals; and (vii) for children 14 years and older, an explanation of the child's rights with respect to education, health, visitation, court participation, and the right to stay safe and avoid exploitation. The foster care plan shall include all documentation specified in 42 U.S.C. § 675(5)(l) and § [63.2-905.3](#). If the child in foster care is placed in a qualified residential treatment program as

defined in § [16.1-228](#), the foster care plan shall also include the report and documentation set forth in subsection A of § [63.2-906.1](#). If the child in foster care is pregnant or is the parent of a child, the foster care plan shall also include (a) a list of the services and programs to be provided to or on behalf of the child to ensure parental readiness or capability and (b) a description of the foster care prevention strategy for any child born to the child in foster care. In cases in which a foster care plan approved prior to July 1, 2011, identifies independent living as the goal for the child, and in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living, the plan shall also describe the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process. For a child 14 years of age and older, the plan shall include a signed acknowledgment by the child that the child has received a copy of the plan and that the rights contained therein have been explained to the child in an age-appropriate manner.

If the department or child welfare agency concludes that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, the department, child welfare agency or team shall (1) include a full description of the reasons for this conclusion; (2) provide information on the opportunities for placing the child with a relative or in an adoptive home; (3) design the plan to lead to the child's successful placement with a relative or fictive kin for the purpose of establishing eligibility for the Federal-Funded Kinship Guardianship Assistance program established pursuant to § [63.2-1305](#) or the State-Funded Kinship Guardianship Assistance program established pursuant to § [63.2-1306](#) or in an adoptive home within the shortest practicable time; and (4) if neither of such placements is feasible, explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living.

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that (A) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (B) the parent 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 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; (C) the parent 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 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; or (D) based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights pursuant to subsection D of § [16.1-283](#).  
As used in this section:



"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.

"Independent living" has the meaning set forth in § [63.2-100](#).

"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.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

Within 30 days of making a determination that reasonable efforts to reunite the child with the parents are not required, the court shall hold a permanency planning hearing pursuant to § [16.1-282.1](#).

C. A copy of the entire foster care plan shall be sent by the court to the child, if he is 12 years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other person standing in loco parentis at the time the board or child welfare agency obtained custody or the board placed the child, to the parents or other person standing in loco parentis, and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan shall be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held within 60 days of (i) the child's initial foster care placement, if the child was placed through an agreement between the parents or guardians and the local department of social services or a child welfare agency; (ii) the original preliminary removal order hearing, if the child was placed in foster care pursuant to § [16.1-252](#); (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to § [16.1-277.02](#); or (iv) the dispositional hearing at which the child was placed in foster care and an order was entered pursuant to § [16.1-278.2](#), [16.1-278.3](#), [16.1-278.4](#), [16.1-278.5](#), [16.1-278.6](#), or [16.1-278.8](#). However, the hearing shall be held in accordance with the provisions of § [16.1-277.01](#) with a petition for approval of an entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

C1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to § [16.1-277.01](#), [16.1-277.02](#), [16.1-278.3](#), or [16.1-283](#); by placing the child in permanent foster care pursuant to clause (iv) of subsection A of § [16.1-282.1](#); or, in cases in which independent living was identified as the goal for a child in a foster care plan approved prior to July 1, 2011, or in which a child has been admitted to the United States as a refugee or asylee and is over 16 years of age and independent living has been identified as the permanency goal for the child, by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of 16 years, pursuant to clause (v) of subsection A of § [16.1-282.1](#) shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board placed the child.

E. 1. In cases in which a child is placed by the local board of social services or a licensed child-placing agency in a qualified residential treatment program as defined in § [16.1-228](#), a hearing shall be held within 60 days of such placement. Prior to such hearing, the qualified residential treatment program shall file with the court the assessment report prepared pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § [16.1-228](#). The court shall (i) consider the assessment report prepared by a qualified individual pursuant to clause (viii) of the definition of qualified residential treatment program set forth in § [16.1-228](#) and submitted pursuant to this subsection; (ii) consider the report and documentation required under subsection A of § [63.2-906.1](#) and filed with the foster care or permanency plan; (iii) determine whether the needs of the child can be met through placement in a foster home or, if not, whether placement in the qualified residential treatment program would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; and (iv) approve or deny the placement of the child in the qualified residential treatment program. The hearing required by this subsection may be held in conjunction with a dispositional hearing held pursuant to subsection C, a foster care review hearing held pursuant to § [16.1-282](#), a permanency planning hearing held pursuant to § [16.1-282.1](#), or an annual foster care review hearing held pursuant to § [16.1-282.2](#), provided that such hearing has already been scheduled by the court and is held within 60 days of the child's placement in the qualified residential treatment program.

2. If the child remains placed in the qualified residential treatment program during any subsequent hearings held pursuant to subsection C or § [16.1-282](#), [16.1-282.1](#), or [16.1-282.2](#), the local board of social services or licensed child-placing agency shall present evidence at such hearing that demonstrates (i) that the ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster home and that the child's placement in the qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and is consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (ii) the specific treatment or service needs of the child that will be met in the qualified residential treatment program and the length of time the child is expected to need such treatment or services; and (iii) the efforts made by the local board of social services to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, or adoptive parent, or in a foster home. The court shall

review such evidence and approve or deny the continued placement of the child in the qualified residential treatment program.

F. At the conclusion of the hearing at which the initial foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within four months in accordance with § [16.1-282](#). However, if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within 12 months of the entry of such order in accordance with the provisions of § [16.1-282.2](#). Parties who are present at the hearing at which the initial foster care plan is reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § [16.1-263](#).

G. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

1977, c. 559; 1978, cc. 732, 740; 1982, c. 171; 1984, c. 373; 1985, c. 210; 1991, c. 98; 1994, cc. [604](#), [865](#); 1997, c. [790](#); 1998, c. [550](#); 2000, c. [385](#); 2002, cc. [397](#), [512](#), [664](#), [729](#), [747](#); 2005, c. [653](#); 2008, cc. [397](#), [475](#), [483](#), [678](#); 2009, c. [80](#); 2011, cc. [154](#), [730](#); 2013, c. [130](#); 2015, c. [120](#); 2016, c. [631](#); 2019, cc. [282](#), [688](#); 2021, Sp. Sess. I, c. [535](#); 2022, c. [305](#).



**FOSTER CARE REVIEW ORDER**

Commonwealth of Virginia Va. Code §§ 16.1-282, 16.1-282.1 A2, 16.1-282.2

Court Case No. \_\_\_\_\_

Agency Case No. \_\_\_\_\_

DATE OF HEARING

☐ Circuit Court☐ Juvenile and Domestic Relations District Court

In re: \_\_\_\_\_

NAME OF CHILD

NAME OF PARENT ☐ PUTATIVE FATHERNAME OF PARENT ☐ PUTATIVE FATHERPresent: ☐ Parent \_\_\_\_\_  
☐ MOTHER ☐ FATHER☐ Attorney for Parent \_\_\_\_\_  
☐ MOTHER ☐ FATHER☐ Parent \_\_\_\_\_  
☐ MOTHER ☐ FATHER☐ Attorney for Parent \_\_\_\_\_  
☐ MOTHER ☐ FATHER☐ Child \_\_\_\_\_☐ Guardian *ad litem* \_\_\_\_\_☐ Agency Representative \_\_\_\_\_☐ Agency Attorney \_\_\_\_\_☐ Foster Parent(s) \_\_\_\_\_☐ CASA \_\_\_\_\_☐ Other \_\_\_\_\_☐ Other \_\_\_\_\_

A petition for foster care review hearing was filed on \_\_\_\_\_ A hearing has been  
DATE  
held to review and approve the foster care plan pursuant to Virginia Code §§ 16.1-282, 16.1-282.1 A2 or 16.1-282.2.

The Court finds with respect to the Indian Child Welfare Act that the child is not an Indian child as defined in 25 U.S.C. § 1903(4) as no information is known or has been discovered that indicates the child is an Indian child. The Indian Child Welfare Act does not apply. The parties shall inform the Court if they subsequently receive any information that indicates the child is an Indian child.

**THE COURT FINDS THAT THE CHILD IS WITHIN THE JURISDICTION OF THIS COURT AND, BASED UPON A PREPONDERANCE OF THE EVIDENCE, FINDS AS FOLLOWS:**

1. Service of process was secured as to the parents for this hearing:

☐ appeared this date and expressly waived objections to service or accepted service without objection.☐ appeared this date and expressly waived objections to service or accepted service without objection.☐ served by personal service for this hearing.☐ served by personal service for this hearing.☐ served by substituted service for this hearing.☐ served by substituted service for this hearing.☐ served by order of publication.☐ served by order of publication.☐ is without the Commonwealth and was served by certified mail, return receipt requested.☐ is without the Commonwealth and was served by certified mail, return receipt requested.☐ residual parental rights regarding the child have been terminated and notice to the parent is not required.☐ residual parental rights regarding the child have been terminated and notice to the parent is not required.**OR**☐ the identity of the ☐ mother ☐ father is not reasonably ascertainable.**OR**☐ reasonable efforts have been made to locate the ☐ parent, \_\_\_\_\_, who cannot be found.☐ parent, \_\_\_\_\_, who cannot be found.

2. Notice of this hearing and a copy of the petition for foster care review hearing pursuant to Virginia Code § 16.1-282 or § 16.1-282.1 D was sent by the Court to the:

☐ child, if 12 or older☐ guardian *ad litem* for child☐ parent \_\_\_\_\_☐ attorney for parent \_\_\_\_\_☐ parent \_\_\_\_\_☐ attorney for parent \_\_\_\_\_☐ person standing *in loco parentis*☐ attorney for person standing *in loco parentis*☐ foster parent(s)☐ other \_\_\_\_\_

## 3. The above-named child:

☐ has been placed through an agreement with the local board of social services where legal custody remains with the parents or guardian,

**OR**

☐ is in the legal custody of the local board of social services or child welfare agency.

Transfer of custody or placement occurred on \_\_\_\_\_ to \_\_\_\_\_  
DATE PUBLIC OR PRIVATE CHILD-PLACING AGENCY  
as a result of:

- ☐ a court order in abuse or neglect case.  
☐ a court order in case of a child at risk of abuse or neglect by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or guardian.  
☐ an entrustment agreement by parent(s).  
☐ a court order in relief of custody case.  
☐ a court order in ☐ child in need of services case or ☐ child in need of supervision case or ☐ status offense case or ☐ delinquency case.  
☐ a placement agreement with parents or guardian.

**THE COURT FURTHER FINDS THAT:**

4. ☐ The above-named child is the subject of a foster care review hearing pursuant to Virginia Code § 16.1-282 because a foster care plan was filed in this court pursuant to Virginia Code § 16.1-281 and, since the dispositional hearing held on \_\_\_\_\_ at which the foster care plan was reviewed, the child has been:

DATE

- ☐ placed through an agreement with the board of social services where legal custody remains with the parents or guardian and such agreement has not been dissolved by court order; or  
☐ in the legal custody of the board or child welfare agency and the child has not had a petition to terminate parental rights granted, filed or ordered to be filed on his or her behalf; has not been placed in permanent foster care; or is age 16 or over and the plan for the child is not independent living.

5. ☐ The above-named child is the subject of

☐ a semi-annual foster care review hearing pursuant to Virginia Code § 16.1-282.1 A2 because a hearing was held on \_\_\_\_\_ and placement of the child, who is 16 years of age or older, in another planned permanent living arrangement was approved as the plan for the child for a maximum of 6 months.

DATE

**OR**

- ☐ an annual foster care review hearing pursuant to Virginia Code § 16.1-282.2 because a hearing was held on \_\_\_\_\_, the child remains in the legal custody of the board or agency, and the child:  
DATE  
☐ has had a petition to terminate parental rights granted, filed or ordered to be filed on his or her behalf; or  
☐ is placed in permanent foster care; or  
☐ has been admitted to the United States as a refugee or asylee and is age 16 or over and the plan for the child is independent living.

**AND**

The requirement of Virginia Code § 16.1-282.1 C has been addressed as follows:

- ☐ the court has consulted with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan.  
☐ As the child is placed in permanent foster care or another planned permanent living arrangement, the court asked about the child's desired permanency outcome.  
☐ the court finds that a consultation with the child is not in the best interests for the following reasons: \_\_\_\_\_  
☐ the local board or child welfare agency did not make the child available to the court for consultation.

6. With reference to the foster care plan with the goal of \_\_\_\_\_ filed  
FOSTER CARE PLAN GOAL  
 in this case and based upon ☐ the facts contained in the plan, which is incorporated by reference ☐ the following facts:

7. ☐ The above-named child was placed on \_\_\_\_\_ in \_\_\_\_\_  
DATE NAME OF PROVIDER  
 a qualified residential treatment program, as defined in Va. Code § 16.1-228. District court form DC-5062, QUALIFIED  
 RESIDENTIAL TREATMENT PROGRAM ORDER—CONTINUED PLACEMENT, is attached to this order.

**THE COURT FURTHER FINDS THAT:**

- ☐ Reasonable efforts ☐ have been made ☐ have not been made by the agency to reunite the child with his or her parents,  
 guardian or other person standing *in loco parentis* to the child.
- ☐ Reasonable efforts to reunite the child with a parent are not required pursuant to Virginia Code § 16.1-281 B.
- ☐ Another planned permanent living arrangement having been approved as the plan for the child, reasonable efforts  
☐ have been made ☐ have not been made to place the child in a timely manner in accordance with the foster care plan and  
 reasonable efforts ☐ have been made ☐ have not been made to monitor the child's status in another planned permanent  
 living arrangement.
- ☐ Reasonable efforts ☐ have been made ☐ have not been made by the agency to place the child in a timely manner in  
 accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.

**THE COURT, IN ACCORDANCE WITH THE BEST INTEREST OF THE CHILD, ORDERS THE FOLLOWING:**

8. The foster care plan is:  
☐ **approved** as submitted and incorporated by reference.  
**OR**  
☐ **approved with the following revisions** and, as revised, is incorporated by reference: \_\_\_\_\_

The clerk shall send a copy of any revisions to all persons who received that part of the original plan.

**OR**

- ☐ **disapproved** and a new petition and plan shall be submitted to the court by \_\_\_\_\_  
DATE  
 for a hearing on \_\_\_\_\_ at \_\_\_\_\_  
DATE TIME

9. ☐ Custody of the child is transferred to \_\_\_\_\_  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY OR INDIVIDUAL/ADDRESS  
☐ As legal custody of the child is transferred to a relative other than the child's 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 Guardian Assistance Program pursuant to § 63.2-1306, district court form DC-559, SUPPLEMENT TO  
 ORDER TRANSFERRING CUSTODY, is attached and incorporated in this order.

10. ☐ \_\_\_\_\_  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY  
 shall continue to utilize reasonable efforts in making appropriate service referrals to the parents, child and foster parents as  
 applicable to accomplish the goals set forth in the foster care plan approved herein and orders of the court entered herein. The  
 parents shall continue to utilize their best efforts to fulfill the requirements of the foster care plan approved herein and orders of the  
 court entered herein.



11. ☐ An effect of an order entered at this hearing is to achieve a permanent goal for the child by placing the child who is 16 years of age or older in permanent foster care.

As required by Virginia Code § 16.1-282.1A3, the court finds that the alternative goals of transferring custody of the child to the child's prior family, or dissolving the board's placement agreement and returning the child to the child's prior family; transferring custody of the child to a relative other than the child's prior family; and terminating residual parental rights pursuant to Virginia Code § 16.1-277.01 or § 16.1-283 continue to not be in the best interest of the child for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. ☐ An effect of an order entered at this hearing is to achieve a permanent goal for the child by placing the child who is 16 years of age or older in another planned permanent living arrangement.

As required by Virginia Code § 16.1-282.1A2, the court finds that the alternative goals of transferring custody of the child to the child's prior family, or dissolving the board's placement agreement and returning the child to the child's prior family; transferring custody of the child to a relative other than the child's prior family; and terminating residual parental rights pursuant to Virginia Code § 16.1-277.01 or § 16.1-283 continue to not be in the best interest of the child for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

13. ☐ A permanency planning hearing pursuant to Virginia Code § 16.1-282.1 shall be held on \_\_\_\_\_ DATE  
at \_\_\_\_\_ TIME, and \_\_\_\_\_ PUBLIC OR PRIVATE CHILD-PLACING AGENCY shall file a petition for  
permanency planning hearing and a foster care plan pursuant to Virginia Code § 16.1-282.1 by \_\_\_\_\_ DATE.

- ☐ Placement of the child, who is 16 years of age or older, in another planned permanent living arrangement having been approved as the plan for the child for a maximum of 6 months, pursuant to Virginia Code § 16.1-282.1 A2 a foster care review hearing shall be held on \_\_\_\_\_ DATE  
at \_\_\_\_\_ TIME, and \_\_\_\_\_ PUBLIC OR PRIVATE CHILD-PLACING AGENCY  
shall file a petition for foster care review hearing and a foster care plan by \_\_\_\_\_ DATE.

- ☐ As the child is in the legal custody of the board or child welfare agency and has had a petition to terminate parental rights granted, filed or ordered to be filed on his or her behalf; is 16 years of age or older, and placed in permanent foster care; or has been admitted to the United States as a refugee or asylee and is age 16 or over and the plan for the child is independent living, an annual foster care review hearing pursuant to Virginia Code § 16.1-282.2 shall be held on \_\_\_\_\_ DATE  
at \_\_\_\_\_ TIME, and \_\_\_\_\_ PUBLIC OR PRIVATE CHILD-PLACING AGENCY  
shall file a petition for foster care review hearing and a foster care plan by \_\_\_\_\_ DATE.

- ☐ As termination of parental rights has been ordered but a final order of adoption has not been entered on behalf of the child, \_\_\_\_\_ PUBLIC OR PRIVATE CHILD-PLACING AGENCY  
shall file an Adoption Progress Report pursuant to Virginia Code §§ 16.1-277.01 E, 16.1-277 D, § 16.1-278 E or  
§ 16.1-283 F in six months, on \_\_\_\_\_ DATE.

14. ☐ Upon inquiry of the guardian *ad litem* and the local board of social services, the Court finds that
- a. the child is at least 14 years of age;
  - b. the child was previously adjudicated to be an abused or neglected child, child in need of services, child in need of supervision, or delinquent child;
  - c. the parent's rights were terminated under a final order pursuant to Virginia Code § 16.1-283(B), (C) or (D) at least two years ago;
  - d. the child has not achieved his permanency goal or the permanency goal was achieved but not sustained; and
  - e. the child has expressed a preference that the possibility of restoring the parental rights of the child's parent or parents be investigated,
- and ORDERS that the ☐ guardian *ad litem* for the child ☐ local board of social services conduct an investigation of the child's parent(s), whose rights were terminated, namely,

\_\_\_\_\_  
NAME OF FORMER PARENT TO BE INVESTIGATED\_\_\_\_\_  
NAME OF FORMER PARENT TO BE INVESTIGATED

regarding the possibility of restoring the parental rights of such parent(s). Upon completion of the investigation, if it is deemed appropriate to do so, either the local board of social services or the child's guardian *ad litem* may file a petition for the restoration of parental rights pursuant to Virginia Code § 16.1-283.2.

15. ☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ District court form DC-593, SUPPLEMENTAL SHEET, is attached and incorporated by reference. Number of supplemental sheets: \_\_\_\_\_

16. This order having been entered in the \_\_\_\_\_ Circuit Court,  
CITY OR COUNTY  
this matter is referred pursuant to Virginia Code § 16.1-297 to the \_\_\_\_\_  
CITY OR COUNTY  
Juvenile and Domestic Relations District Court for future proceedings.

\_\_\_\_\_  
DATE\_\_\_\_\_  
JUDGE

## PERMANENCY PLANNING ORDER

Commonwealth of Virginia Va. Code §§ 16.1-282.1, 63.2-906, 63.2-910.2

### Court Case

Agency Case No. ....

☐ Circuit Court

[ ] Juvenile and Domestic Relations  
District Court

DATE OF HEARING

*In re:* .....

NAME OF CHILD

NAME OF PARENT [ ] PUTATIVE FATHER

NAME OF PARENT [ ] PUTATIVE FATHER

Present: ☐ Parent ..... ☐ Attorney for Parent .....  
☐ MOTHER ☐ FATHER ☐ MOTHER ☐ FATHER

[ ] Parent ..... [ ] Attorney for Parent .....  
[ ] MOTHER [ ] FATHER [ ] MOTHER [ ] FATHER

☐ Child ..... ☐ Guardian *ad litem* .....

☐ Agency Representative ..... ☐ Agency Attorney .....

☐ Foster Parent(s) ..... ☐ CASA .....

☐ Other .....

A petition for permanency planning hearing was filed on .....

DATE \_\_\_\_\_

A permanency planning hearing has been held pursuant to Virginia Code § 16.1-282.1.

The Court finds with respect to the Indian Child Welfare Act that the child is not an Indian child as defined in 25 U.S.C. § 1903 (4) as no information is known or has been discovered that indicates the child is an Indian child. The Indian Child Welfare Act does not apply. The parties shall inform the Court if they subsequently receive any information that indicates that the child is an Indian child.

**THE COURT FINDS THAT THE CHILD IS WITHIN THE JURISDICTION OF THIS COURT AND, BASED UPON A PREPONDERANCE OF THE EVIDENCE, FINDS AS FOLLOWS:**

1. Service of process was secured as to the parents for this hearing:

[ ] appeared this date and expressly waived objections to service or accepted service without objection.

[ ] served by personal service for this hearing.

[ ] served by substitute service for this hearing.

[ ] served by order of publication.

[ ] is without the Commonwealth and was served by  
certified mail, return receipt requested.

[ ] appeared this date and expressly waived objections to service or accepted service without objection.

[ ] served by personal service for this hearing.

[ ] served by substitute service for this hearing.

[ ] served by order of publication.

[ ] is without the Commonwealth and was served by certified mail, return receipt requested.

**OR** [ ] the identity of the [ ] mother [ ] father is not reasonably ascertainable

**OR** ☐ reasonable efforts have been made to locate the ☐ parent, \_\_\_\_\_, who cannot be found.

[ ] parent, \_\_\_\_\_, who cannot be found.

2. Notice of this hearing and a copy of the petition filed pursuant to Virginia Code § 16.1-282.1 was sent by the court to:

[ ] child, if 12 or older

☐ parent .....

☐ parent \_\_\_\_\_

[ ] person standing *in loco parentis*

[ ] foster parent(s)

[ ] guardian *ad litem* for child

[ ] attorney for parent .....

☐ attorney for parent .....

[ ] attorney for person standing *in loco parentis*

☐ other .....



**THE COURT FURTHER FINDS THAT:**

## 3. The above-named child:

☐ has been placed through an agreement with the local board of social services where legal custody remains with the parents or guardian,

**OR**

☐ is in the legal custody of the local board of social services or child welfare agency.

Transfer of custody or placement occurred on ..... to .....  
DATE PUBLIC OR PRIVATE CHILD-PLACING AGENCY

as a result of:

☐ a court order in abuse or neglect case.

☐ a court order in case of a child at risk of abuse or neglect by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian.

☐ an entrustment agreement by parent(s).

☐ a court order in relief of custody case.

☐ a court order in ☐ child in need of services case or ☐ child in need of supervision case or ☐ status offense case or ☐ delinquency case.

☐ a placement agreement with parents or guardian.

4. ☐ The above-named child is the subject of a permanency planning hearing pursuant to Virginia Code § 16.1-282.1 because:

☐ (a) the child

i. was the subject of a foster care plan filed in this court pursuant to Virginia Code § 16.1-281, has not previously been the subject of a permanency planning hearing at which the court approved a permanent goal, and

ii. has been:

☐ placed through an agreement with the local board of social services where legal custody remains with the parents or guardian and such agreement has not been dissolved by court order; or

☐ in the legal custody of the local board of social services or a child welfare agency and the child has not had a petition to terminate parental rights granted, filed or ordered to be filed on his/her behalf; has not been placed in permanent foster care; or is age 16 or over and the plan for the child is not independent living.

**OR**

☐ (b) the child was the subject of a hearing at which the Court made a determination that reasonable efforts to reunite the child with his or her parents are not required, in accordance with the provisions of Virginia Code § 16.1-281 B.

**OR**

☐ (c) the child was the subject of a permanency planning hearing pursuant to Virginia Code § 16.1-282.1 at which the Court approved an interim plan for the child.

**OR**

☐ (d) the child has been placed in another planned permanent living arrangement and his/her need for long-term residential treatment for a disabling condition is eliminated such that a permanency planning hearing is required pursuant to Virginia Code § 16.1-282.1 A2.

**AND**

The requirement of Virginia Code § 16.1-282.1 C has been addressed as follows:

☐ the court has consulted with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan.

☐ As the child is placed in permanent foster care or another planned permanent living arrangement, the court asked about the child's desired permanency outcome.

☐ the court finds that a consultation with the child is not in the best interests for the following reasons: .....

☐ the local board or child welfare agency did not make the child available to the court for consultation.

5. ☐ The above-named child was placed on ..... in .....  
DATE NAME OF PROVIDER  
 a qualified residential treatment program, as defined in Va. Code § 16.1-228. District court form DC-5062, QUALIFIED RESIDENTIAL TREATMENT PROGRAM ORDER – CONTINUED PLACEMENT, is attached to this order.
6. ☐ The child has been in the custody of the local board or child welfare agency for 15 of the most recent 22 months and no petition for termination of parental rights has been filed for the following reasons:
- ☐ the child is being cared for by a relative; or
  - ☐ the local board or child welfare agency has determined that the filing of such a petition is not in the best interest of the child and has documented a compelling reason for such decision in the child's foster care plan; or
  - ☐ 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).

Having reviewed the foster care plan with the permanent goal of .....  
PERMANENT GOAL

and given consideration to the best interest of the child, the court's determinations are specified below with regard to reasonable efforts in paragraph 8, and the foster care plan in paragraph 9, 10 or 11:

7. Based upon ☐ the facts contained in the plan, which is incorporated by reference ☐ the following facts: .....

- ☐ Reasonable efforts ☐ have been made ☐ have not been made by the agency to reunite the child with his or her parents, guardian or other person standing *in loco parentis* to the child.
- ☐ Reasonable efforts to reunite the child with a parent are not required pursuant to Virginia Code § 16.1-281 B.
- ☐ The board or agency has identified a permanent goal for the child other than returning the child home and reasonable efforts ☐ have been made ☐ have not been made to achieve the permanent goal identified in the foster care plan.

AND

8. ☐ The **permanent goal is achievable** at this time, and the foster care plan is:  
☐ **approved** as submitted and incorporated by reference.
- OR
- ☐ **approved with the following revisions** and, as revised, is incorporated in this order: .....

The clerk shall send a copy of any revisions to all persons who received that part of the original plan.

AND

- ☐ Custody of the child is transferred to his or her prior family, namely .....  
NAME
- ☐ The board of social services' placement agreement is dissolved and the child is returned to his or her prior family.
- ☐ Custody of the child is transferred to a relative other than the child's prior family, or to fictive kin for the purpose of establishing eligibility for the Federal-Funded Kinship Guardian Assistance program pursuant to § 63.2-1305 or the State-Funded Kinship Guardianship Assistance Program pursuant to § 63.2-1306, namely .....

NAME AND ADDRESS

- ☐ District court form DC-559, SUPPLEMENT TO ORDER TRANSFERRING CUSTODY, is attached and incorporated in this order, as legal custody of the child is transferred to a relative other than the child's prior family.



☐ Termination of parental rights having been documented as being in the best interest of the child:

☐ The agency with custody of the child is directed to file petitions to terminate parental rights pursuant to Virginia Code § 16.1-277.01 or § 16.1-283 by .....

☐ Upon separate petitions to terminate parental rights, the court has heard and adjudicated these petitions at this proceeding to approve the foster care plan. Separate orders terminating parental rights are appended.

☐ The child, who is 16 years of age or older, is placed in permanent foster care pursuant to Virginia Code § 63.2-908. A separate permanent foster care placement order is appended.

As required by Virginia Code § 16.1-282.1A3, the court finds that the alternative goals of transferring custody of the child to the child's prior family, or dissolving the board's placement agreement and returning the child to the child's prior family; transferring custody of the child to a relative other than the child's prior family; and terminating residual parental rights pursuant to Virginia Code § 16.1-277.01 or § 16.1-283 continue to not be in the best interest of the child for the following reasons:

.....  
 .....  
 .....

☐ As the child has been admitted to the United States as a refugee or asylee, has attained the age of 16 years and the plan is independent living, the agency with custody of the child shall provide the child with services to transition to independent living.

☐ The placement of the child, who is 16 years of age or older, in another planned permanent living arrangement is approved for a maximum of 6 months, as:

- The child has a severe and chronic emotional, physical or neurological disabling condition; and
- The child requires long-term treatment for the disabling condition; and
- None of the alternatives listed above is achievable for the child at this time.

As required by Virginia Code § 16.1-282.1A2, the court finds that the alternative goals of transferring custody of the child to the child's prior family, or dissolving the board's placement agreement and returning the child to the child's prior family; transferring custody of the child to a relative other than the child's prior family; and terminating residual parental rights pursuant to Virginia Code § 16.1-277.01 or § 16.1-283 continue to not be in the best interest of the child for the following reasons:

.....  
 .....  
 .....

**OR**

9. ☐ The **interim plan**, which meets the requirements of Virginia Code § 16.1-282.1 B, is:

☐ **approved** for a maximum of 6 months and incorporated by reference.

**OR**

☐ **approved with the following revisions** for a maximum of 6 months and, as revised, is incorporated in this order:

.....  
 .....

**AND**

☐ Custody of the child is continued with the board or child welfare agency or placement of the child is continued with the board through a parental agreement. **OR**

☐ Custody of the child is transferred to the board or child welfare agency from the parents or guardian of a child who has been in foster care where the parents or guardian retained custody.

**AND**

Having approved the interim plan, the Court makes the following finding:

- ☐ Since return home remains the plan for the child: (i) the parent has made marked progress toward reunification with the child; (ii) the parent has maintained a close and positive relationship with the child; (iii) the child is likely to return home in the near future, although it is premature to set the exact date for return at the time of this hearing. **OR**
- ☐ Since return home is not the plan for the child: (i) marked progress is being made to achieve the permanent plan goal identified by the board or child welfare agency; and (ii) it is premature to set an exact date for accomplishing this goal at the time of this hearing.
- ☐ As the child's placement is out-of-state:
- ☐ the placement is appropriate and in the best interests of the child.
- ☐ the placement is not appropriate and not in the best interests of the child and the local board or child welfare agency shall identify an appropriate placement for the child.

**OR**

10. ☐ The foster care plan is **disapproved** and a new petition and plan shall be submitted to the Court on or before:

\_\_\_\_\_ for a hearing on \_\_\_\_\_ at \_\_\_\_\_  
DATE DATE TIME

11. ☐ Approval of an interim plan having been ordered, a second permanency planning hearing to achieve the permanent goal by entering an order consistent with Virginia Code § 16.1-282.1 A (i)-(v) shall be held within 6 months, on

\_\_\_\_\_ at \_\_\_\_\_, and  
DATE TIME

\_\_\_\_\_ shall file a petition for permanency planning  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY

hearing and a foster care plan by \_\_\_\_\_  
DATE

- ☐ Placement of the child, who is 16 years of age or older, in another planned permanent living arrangement having been approved as the permanent plan for the child for a maximum of 6 months, pursuant to Virginia Code § 16.1-282.1 A2 a foster care review hearing shall be held on

\_\_\_\_\_ at \_\_\_\_\_, and  
DATE TIME

\_\_\_\_\_ shall file a petition for foster care review  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY

and a foster care plan by \_\_\_\_\_  
DATE

- ☐ Termination of parental rights having been documented as in the best interest of the child and petitions therefor granted, filed or ordered to be filed; or placement in permanent foster care or services to transition to independent living having been ordered, pursuant to Virginia Code § 16.1-282.2 an annual foster care review hearing is set in twelve months, on

\_\_\_\_\_ at \_\_\_\_\_, and  
DATE TIME

\_\_\_\_\_ shall file a petition  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY

for foster care review hearing and a foster care plan by \_\_\_\_\_  
DATE

- ☐ Termination of parental rights having been ordered, \_\_\_\_\_  
PUBLIC OR PRIVATE CHILD-PLACING AGENCY

shall file an Adoption Progress Report pursuant to Virginia Code § 16.1-277.01 E, § 16.1-277.02 D, § 16.1-278.3 E or

§ 16.1-283 F every six months until a final order of adoption is entered. The first report is due on \_\_\_\_\_  
DATE

12. ☐ Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Court Case No. \_\_\_\_\_

☐ District court form DC-593, SUPPLEMENTAL SHEET, is attached and incorporated by reference. Number of supplemental sheets: \_\_\_\_\_

13. ☐ This order having been entered in the \_\_\_\_\_ Circuit Court, this matter is referred  
CITY OR COUNTY  
pursuant to Virginia Code § 16.1-297 to the \_\_\_\_\_ Juvenile and Domestic Relations  
CITY OR COUNTY  
District Court for future proceedings.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
JUDGE

## **§ 16.1-283. Termination of residual parental rights.**

A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding if the petition specifically requests such relief. No petition seeking termination of residual parental rights shall be accepted by the court prior to the filing of a foster care plan, pursuant to § [16.1-281](#), which documents termination of residual parental rights as being in the best interests of the child. The court may hear and adjudicate a petition for termination of parental rights in the same proceeding in which the court has approved a foster care plan which documents that termination is in the best interests of the child. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. The local board of social services or a licensed child-placing agency need not have identified an available and eligible family to adopt a child for whom termination of parental rights is being sought prior to the entry of an order terminating parental rights.

Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of social services or to a licensed child-placing agency or transferring custody to a person with a legitimate interest. However, in such cases the court shall give a consideration to granting custody to a person with a legitimate interest, and if custody is not granted to a person with a legitimate interest, the judge shall communicate to the parties the basis for such decision either orally or in writing. An order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto.

The summons shall be served upon the parent or parents and the other parties specified in § [16.1-263](#). Written notice of the hearing shall also be provided to the foster parents of the child, a relative providing care for the child, and any preadoptive parents for the child informing them that they may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding. The persons entitled to notice and an opportunity to be heard need not be made parties to the proceedings. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § [16.1-264](#).

A1. Any order transferring custody of the child to a person with a legitimate interest pursuant to subsection A shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a person with a legitimate interest should further provide, as appropriate, for any terms and conditions that would promote the child's interest and welfare.

B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement entered into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health or development; and

2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subdivision B 2:

- a. The parent or parents have a mental or emotional illness or intellectual disability of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;
- b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or
- c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition; or

2. The parent or parents, without good cause, have been unwilling or unable within a reasonable period of time not to exceed 12 months from the date the child was placed in foster care to remedy substantially the conditions which led to or required continuation of the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end. Proof that the parent or parents, without good cause, have failed or been unable to make substantial progress towards elimination of the conditions which led to or required continuation of the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court

shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

**D.** The residual parental rights of a parent or parents of a child found by the court to be neglected or abused upon the ground of abandonment may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The child was abandoned under such circumstances that either the identity or the whereabouts of the parent or parents cannot be determined; and
2. The child's parent or parents, guardian, or relatives have not come forward to identify such child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care; and
3. Diligent efforts have been made to locate the child's parent or parents, guardian, or relatives without avail.

**E.** The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent 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 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; (iii) the parent 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 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; or (iv) the parent has subjected any child to aggravated circumstances.

As used in this section:

"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.

"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse which place the child's health, safety and well-being at risk.

"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.

"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this subsection or who has been found by the court to have subjected any child to aggravated circumstances.

**F.** The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first written Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

**G.** Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he is 14 years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination. However, residual parental rights of a child 14 years of age or older may be terminated over the objection of the child, if the court finds that any disability of the child reduces the child's developmental age and that the child is not otherwise of an age of discretion.



## **§ 63.2-1522. Admission of evidence of sexual acts with children.**

A. In any civil proceeding involving alleged abuse or neglect of a child pursuant to this chapter or pursuant to § [16.1-241](#), [16.1-251](#), [16.1-252](#), [16.1-253](#), [16.1-283](#), or [20-107.2](#), an out-of-court statement made by a child 14 years of age or younger at the time the statement is offered into evidence, describing any act of a sexual nature performed with or on the child by another, not otherwise admissible by statute or rule, may be admissible in evidence if the requirements of subsection B are met.

B. An out-of-court statement may be admitted into evidence as provided in subsection A if:

1. The child testifies at the proceeding, or testifies by means of a videotaped deposition or closed-circuit television, and at the time of such testimony is subject to cross-examination concerning the out-of-court statement or the child is found by the court to be unavailable to testify on any of these grounds:

- a. The child's death;
- b. The child's absence from the jurisdiction, provided such absence is not for the purpose of preventing the availability of the child to testify;
- c. The child's total failure of memory;
- d. The child's physical or mental disability;
- e. The existence of a privilege involving the child;
- f. The child's incompetency, including the child's inability to communicate about the offense because of fear or a similar reason; and
- g. The substantial likelihood, based upon expert opinion testimony, that the child would suffer severe emotional trauma from testifying at the proceeding or by means of a videotaped deposition or closed-circuit television.

2. The child's out-of-court statement is shown to possess particularized guarantees of trustworthiness and reliability.

C. A statement may not be admitted under this section unless the proponent of the statement notifies the adverse party of his intention to offer the statement and the substance of the statement sufficiently in advance of the proceedings to provide the adverse party with a reasonable opportunity to prepare to meet the statement, including the opportunity to subpoena witnesses.

D. In determining whether a statement possesses particularized guarantees of trustworthiness and reliability under subdivision B 2, the court shall consider, but is not limited to, the following factors:

1. The child's personal knowledge of the event;
2. The age and maturity of the child;



3. Certainty that the statement was made, including the credibility of the person testifying about the statement and any apparent motive such person may have to falsify or distort the event including bias, corruption, or coercion;
  4. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
  5. The timing of the child's statement;
  6. Whether more than one person heard the statement;
  7. Whether the child was suffering pain or distress when making the statement;
  8. Whether the child's age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
  9. Whether the statement has internal consistency or coherence, and uses terminology appropriate to the child's age;
  10. Whether the statement is spontaneous or directly responsive to questions;
  11. Whether the statement is responsive to suggestive or leading questions; and
  12. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.
- E. The court shall support with findings on the record, or with written findings in a court not of record, any rulings pertaining to the child's unavailability and the trustworthiness and reliability of the out-of-court statement.

1988, c. 892, § 63.1-248.13:2; 2002, c. [747](#); 2019, c. [413](#).

## **§ 63.2-1523. Use of videotaped statements of complaining witnesses as evidence.**

A. In any civil proceeding involving alleged abuse or neglect of a child pursuant to this chapter or pursuant to § [16.1-241](#), [16.1-251](#), [16.1-252](#), [16.1-253](#), [16.1-283](#), or [20-107.2](#), a recording of a statement of the alleged victim of the offense, made prior to the proceeding, may be admissible as evidence if the requirements of subsection B are met and the court determines that:

1. The alleged victim is 14 years of age or younger at the time the statement is offered into evidence;
2. The recording is both visual and oral, and every person appearing in, and every voice recorded on, the tape is identified;
3. The recording is on videotape or was recorded by other electronic means capable of making an accurate recording;
4. The recording has not been altered;
5. No attorney for any party to the proceeding was present when the statement was made;
6. The person conducting the interview of the alleged victim was authorized to do so by the child-protective services coordinator of the local department;
7. All persons present at the time the statement was taken, including the alleged victim, are present and available to testify or be cross examined at the proceeding when the recording is offered; and
8. The parties or their attorneys were provided with a list of all persons present at the recording and were afforded an opportunity to view the recording at least 10 days prior to the scheduled proceedings.

B. A recorded statement may be admitted into evidence as provided in subsection A if:

1. The child testifies at the proceeding, or testifies by means of closed-circuit television, and at the time of such testimony is subject to cross-examination concerning the recorded statement or the child is found by the court to be unavailable to testify on any of these grounds:

- a. The child's death;
- b. The child's absence from the jurisdiction, provided such absence is not for the purpose of preventing the availability of the child to testify;
- c. The child's total failure of memory;
- d. The child's physical or mental disability;
- e. The existence of a privilege involving the child;
- f. The child's incompetency, including the child's inability to communicate about the offense because of fear or a similar reason;
- g. The substantial likelihood, based upon expert opinion testimony, that the child would suffer severe emotional trauma from testifying at the proceeding or by means of closed-circuit television; and

2. The child's recorded statement is shown to possess particularized guarantees of trustworthiness and reliability.

C. A recorded statement may not be admitted under this section unless the proponent of the statement notifies the adverse party of his intention to offer the statement and the substance of the statement sufficiently in advance of the proceedings to provide the adverse party with a reasonable opportunity to prepare to meet the statement, including the opportunity to subpoena witnesses.

D. In determining whether a recorded statement possesses particularized guarantees of trustworthiness and reliability under subdivision B 2, the court shall consider, but is not limited to, the following factors:

1. The child's personal knowledge of the event;
2. The age and maturity of the child;
3. Any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
4. The timing of the child's statement;
5. Whether the child was suffering pain or distress when making the statement;
6. Whether the child's age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
7. Whether the statement has a "ring of verity," has internal consistency or coherence, and uses terminology appropriate to the child's age;
8. Whether the statement is spontaneous or directly responsive to questions;
9. Whether the statement is responsive to suggestive or leading questions; and
10. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

E. The court shall support with findings on the record, or with written findings in a court not of record, any rulings pertaining to the child's unavailability and the trustworthiness and reliability of the recorded statement.

1988, c. 900, § 63.1-248.13:3; 2002, c. [747](#); 2019, c. [413](#).