

CODE OF VIRGINIA



Title 51.5 Persons With Disabilities

Title 51.5 - PERSONS WITH DISABILITIES

Chapter 1 - DECLARATION OF POLICY; PLAN OF COOPERATION

§ 51.5-1. Declaration of policy.

It is the policy of the Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment. To these ends, the General Assembly directs the Governor; the Virginia Board for People with Disabilities; the Departments of Education, Health, Housing and Community Development, Behavioral Health and Developmental Services, and Social Services; the Departments for Aging and Rehabilitative Services, the Blind and Vision Impaired, and the Deaf and Hard-of-Hearing; and such other agencies as the Governor deems appropriate to provide, in a comprehensive and coordinated manner that makes the best use of available resources, those services necessary to assure equal opportunity to persons with disabilities in the Commonwealth.

The provisions of this title shall be known and may be cited as "The Virginians with Disabilities Act."

1985, c. 421, § 51.01-1; 1990, c. 458; 1991, c. 563; 2002, c. [572](#); 2009, cc. [813](#), [840](#); 2012, cc. [803](#), [835](#); 2013, c. [571](#).

§ 51.5-2. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

Chapter 2 - DEFINITIONS; STATE REHABILITATION COUNCIL; LOCAL DISABILITY SERVICES

§§ 51.5-3 through 51.5-5.01. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

§§ 51.5-5.1, 51.5-6. Repealed.

Repealed by Acts 2003, cc. [57](#) and [73](#).

§ 51.5-7. Repealed.

Repealed by Acts 1992, c. 755.

Chapter 3 - DEPARTMENT OF REHABILITATIVE SERVICES

§§ 51.5-8, 51.5-9. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

§ 51.5-9.01. Repealed.

Repealed by Acts 2003, cc. [57](#) and [73](#).

§§ 51.5-9.1 through 51.5-10.1. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

§ 51.5-11. Repealed.

Repealed by Acts 2008, c. [563](#), cl. 2.

§ 51.5-12. Repealed.

Repealed by Acts 2011, cc. [7](#) and [166](#), cl. 2.

Chapter 3.1 - THE COMMONWEALTH NEUROTRAUMA INITIATIVE

§§ 51.5-12.1 through 51.5-12.4. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

Chapter 4 - COMMISSIONER OF REHABILITATIVE SERVICES

§§ 51.5-13 through 51.5-14.1. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

Chapter 5 - VOCATIONAL REHABILITATION

§§ 51.5-15 through 51.5-22. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

Chapter 6 - COMMUNITY SERVICES FOR PERSONS WITH DISABILITIES

§§ 51.5-23 through 51.5-30. Repealed.

Repealed by Acts 2012, cc. [803](#) and [835](#), cl. 60.

Chapter 7 - VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

§ 51.5-31. Board created.

There shall be a Virginia Board for People with Disabilities, responsible to the Secretary of Health and Human Resources. The Board shall be composed of 39 members, to include the head or a person designated by the head of the Department for Aging and Rehabilitative Services, Department for the Deaf and Hard-of-Hearing, Department of Education, Department of Medical Assistance Services, Department of Behavioral Health and Developmental Services, and the Department for the Blind and Vision Impaired; one representative of the protection and advocacy entity; one representative of the university center for excellence in developmental disabilities; one representative each, to be appointed by the Governor, of a local governmental agency, a manufacturing or a retailing industry, a high-technology industry, a public transit interest, and a nongovernmental agency or group of agencies concerned with services for persons with developmental disabilities; a banking executive; one person with disabilities other than developmental disabilities; and 24 persons with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Of the last 24 persons, one-third shall be persons with developmental disabilities; one-third shall be a combination of (i) parents or guardians of children with developmental disabilities and (ii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot

advocate for themselves; and one-third shall be a combination of (a) persons with developmental disabilities, (b) parents or guardians of children with developmental disabilities, and (c) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. At least one person shall be either (1) an immediate relative or guardian of a person who resides in or previously resided in an institution or (2) a person with a developmental disability who previously resided in an institution. Such persons shall not be employees of the Virginia Board for People with Disabilities or "managing employees," as defined by the Social Security Act (42 U.S.C. § 1320a-5), of any other entity that receives funds or provides services under Subtitle B of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (P.L. 106-402).

Each member appointed by the Governor shall be appointed for a four-year term. Members so appointed shall be subject to removal at the pleasure of the Governor. Any vacancy other than by expiration of a term shall be filled for the unexpired term. No person appointed by the Governor shall serve for more than two successive terms.

The Board shall elect its chairman.

1985, c. 421, § 51.01-31; 1989, c. 133; 1990, c. 458; 1992, c. 627; 2001, cc. [526](#), [546](#); 2003, c. [501](#); 2009, cc. [813](#), [840](#); 2012, cc. [803](#), [835](#); 2015, c. [523](#).

§ 51.5-32. Meetings; compensation.

The Board shall meet and report at least quarterly to the Secretary of Health and Human Resources.

Members of the Board shall receive no compensation for their services. Representatives appointed by the Governor shall be paid their necessary expenses incurred in the performance of their duties.

1985, c. 421, § 51.01-32.

§ 51.5-33. Powers and duties.

The Board shall have the following powers and duties:

1. To advise the Secretary of Health and Human Resources and Governor on issues and problems of interest to persons with disabilities and on such other matters as either the Secretary or the Governor may request;
2. Beginning July 1, 2017, to submit an annual report to the Governor, through the Secretary of Health and Human Resources, that provides an in-depth assessment of at least two major service areas for people with disabilities, to be determined by the Board, that (i) includes a description of critical issues and trend analyses, (ii) identifies the needs of persons with developmental and related disabilities, (iii) evaluates the effectiveness of services provided by state-supported programs, and (iv) makes programmatic and fiscal recommendations for improving services and supports. Once every four years, the Board shall make available to the public all the service areas it intends to review over the following four years and shall ensure that each of these service areas is reviewed at least once within such period.

3. To serve as the State Council on Developmental Disabilities for the administration of certain federal public health and welfare laws as provided in 42 U.S.C. § 15001;
4. To perform all duties and exercise all powers designated by federal law for such state councils on developmental disabilities, including the responsibility for planning activities on behalf of all developmentally disabled persons in the Commonwealth; for receiving, accounting for and disbursing federal funds; for developing and approving the state plan; and for monitoring and evaluating the implementation of such plan for the provision of services and facilities for persons with developmental disabilities;
5. To be responsible for obtaining information and data from within the Commonwealth, and from time to time, but not less than annually, to review and evaluate the state plan and submit such state plan, and revisions thereto, to the Governor and to the U.S. Secretary of Health and Human Services;
6. To hire and supervise the Director of the Board and prescribe his duties, including:
 - a. Hiring such staff and obtaining the service of such professional, technical, and clerical personnel necessary to carry out the Board's powers and duties; and
 - b. Accepting gifts and grants on behalf of the Commonwealth, in furtherance of the purpose of this Board.

1985, c. 421, § 51.01-33; 1990, c. 458; 1992, c. 627; 1995, c. [34](#); 2009, c. [516](#); 2012, cc. [803](#), [835](#); 2015, c. [523](#); 2016, c. [219](#).

§ 51.5-34. Repealed.

Repealed by Acts 1995, c. [34](#), cl. 2.

§ 51.5-35. Repealed.

Repealed by Acts 1992, c. 627.

§ 51.5-35.1. Repealed.

Repealed by Acts 2015, c. [123](#), cl. 1.

Chapter 8 - DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

§§ 51.5-36 through 51.5-39. Repealed.

Repealed by Acts 2002, c. [572](#), effective July 16, 2002.

Chapter 8.1 - PROTECTION AND ADVOCACY SERVICES

§§ 51.5-39.1 to 51.5-39.12. Repealed.

Repealed by Acts 2012, c. [847](#), cl. 2, effective January 1, 2014.

§ 51.5-39.13. Conversion of the Virginia Office for Protection and Advocacy to a nonprofit entity.

A. Not later than December 31, 2013, the Director, in consultation with the Board, shall establish a nonprofit entity to provide advocacy, legal, and ombudsman services to persons with disabilities. Such nonprofit entity shall be established in such a manner that the entity is in compliance with all federal

law regarding a protection and advocacy system. Such nonprofit entity shall be designated as the agency to protect and advocate for the rights of persons with mental, cognitive, sensory, physical, or other disabilities and to receive federal funds on behalf of the Commonwealth of Virginia to implement the federal Protection and Advocacy for Individuals with Mental Illness Act, the federal Developmental Disabilities Assistance and Bill of Rights Act, the federal Rehabilitation Act, the Virginians with Disabilities Act (§ [51.5-1](#) et seq.), and such other related programs as may be established in state or federal law.

B. Not later than January 1, 2014, the Governor shall designate the nonprofit entity established pursuant to subsection A to serve as the state's protection and advocacy system, and such nonprofit entity shall thereafter be known as the disAbility Law Center of Virginia.

C. Employees of the Virginia Office for Protection and Advocacy who transition to employment with the organization designated pursuant to subsection B shall not be subject to the provisions of the Workforce Transition Act (§ [2.2-3200](#) et seq.).

2012, c. [847](#); 2013, c. [571](#).

Chapter 9 - RIGHTS OF PERSONS WITH DISABILITIES

§ 51.5-40. Nondiscrimination under state grants and programs.

No person with a disability who is otherwise qualified shall on the basis of his disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving state financial assistance or under any program or activity conducted by or on behalf of any state agency.

1985, c. 421, § 51.01-40; 1990, c. 458; 1992, c. 627; 2002, c. [572](#); 2012, c. [847](#); 2014, c. [616](#).

§ 51.5-40.1. Definitions.

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

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

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

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

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

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

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

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

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

2012, cc. [476](#), [507](#), [803](#), [835](#); 2014, c. [616](#).

§ 51.5-41. Discrimination against otherwise qualified persons with disabilities by employers prohibited.

A. No employer shall discriminate in employment or promotion practices against an otherwise qualified person with a disability solely because of such disability. For the purposes of this section, an "otherwise qualified person with a disability" means a person qualified to perform the duties of a particular job or position and whose disability is unrelated to the person's ability to perform such duties or position or is unrelated to the person's qualifications for employment or promotion.

B. It is the policy of the Commonwealth that persons with disabilities shall be employed in the state service, the service of the political subdivisions of the Commonwealth, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as other persons unless it is shown that the particular disability prevents the performance of the work involved.

C. An employer shall make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue burden on the employer. For the purposes of this section, "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease, or defect that has been successfully asserted by an individual as a defense to any criminal charge.

1. In determining whether an accommodation would constitute an undue burden upon the employer, the following shall be considered:

- a. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's work force;
- b. Size of the facility where employment occurs;
- c. The nature and cost of the accommodations needed, taking into account alternate sources of funding or technical assistance included under § [51.5-173](#);
- d. The possibility that the same accommodations may be used by other prospective employees;
- e. Safety and health considerations of the person with a disability, other employees, and the public.

2. Notwithstanding the foregoing, any accommodation that would exceed \$500 in cost shall be rebuttably presumed to impose an undue burden upon any employer with fewer than 50 employees.

3. The employer has the right to choose among equally effective accommodations.

4. Nothing in this section shall require accommodations when the authority to make such accommodations is precluded under the terms of a lease or otherwise prohibited by statute, ordinance, or other regulation.

5. Building modifications made for the purposes of such reasonable accommodation may be made without requiring the remainder of the existing building to comply with the requirements of the Uniform Statewide Building Code.

D. Nothing in this section shall prohibit an employer from refusing to hire or promote, from disciplining, transferring, or discharging or taking any other personnel action pertaining to an applicant or an employee who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner which would not endanger his health or safety or the health or safety of others. Nothing in this section shall subject an employer to any legal liability resulting from the refusal to employ or promote or from the discharge, transfer, discipline of, or the taking of any other personnel action pertaining to a person with a disability who, because of his disability, is unable to adequately perform his duties, or cannot perform such duties in a manner that would not endanger his health or safety or the health or safety of others.

E. Nothing in this section shall be construed as altering the provisions of the Virginia Minimum Wage Act (§ [40.1-28.8](#) et seq.).

F. This section shall not apply to employers covered by the federal Rehabilitation Act of 1973.

G. No employer who has hired any person because of the requirements of this section shall be liable for any alleged negligence in such hiring.

Code 1950, § 63.1-171.6; 1972, c. 156; 1985, c. 421, § 51.01-41; 2012, cc. [803](#), [835](#); 2014, c. [616](#); 2016, c. [27](#).

§ 51.5-42. Discrimination against otherwise qualified persons with disabilities by educational institutions prohibited.

A. No public educational institution or private educational institution, or agent of either, that is a recipient of state funds shall deny admission to the institution, or full and equal access to and enjoyment of any of its educational or extracurricular programs, to an otherwise qualified person with a disability because of such disability. For purposes of this section, an "otherwise qualified person with a disability" means a person with a disability who meets the requirements for admission to the institution and for participation in its programs and whose disability is unrelated to the person's ability to utilize and benefit from educational opportunities, programs, and facilities at the educational institution.

B. This section shall not apply to any public or private educational institution that is subject to the requirements of § [22.1-215](#) nor to any private elementary or secondary school or institution of higher education that is not a recipient of state funds.

1985, c. 421, § 51.01-42; 2014, c. [616](#).

§ 51.5-43. Discrimination against qualified persons with disabilities in exercising right to vote prohibited.

No person with a disability who is otherwise entitled to vote under the provisions of § [24.2-400](#) and who is not disqualified from voting under the provisions of § [24.2-101](#) shall be denied the opportunity to register or vote in this Commonwealth because of such disability. However, nothing in this section shall be construed to require the release of patients from any state hospital as defined in § [37.2-100](#) or prisoners of any state correctional facility as defined in § [53.1-1](#) for purposes of registering to vote or voting.

1985, c. 421, § 51.01-43.

§ 51.5-44. Rights of persons with disabilities in public places and places of public accommodation.

A. A person with a disability has the same rights as other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. For purposes of this section, a "person with a disability" means a person whose disability is unrelated to his ability to utilize and benefit from a place of public accommodation or public service.

B. A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, subways, boats or any other public conveyances or modes of transportation, restaurants, hotels, lodging places, places of public accommodation, amusement or resort, public entities including schools, and other places to which the general public is invited subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Each town, city, or county, individually or through transportation district commissions, shall ensure that persons with disabilities have access to the public transportation within its jurisdiction by either (i) use of the same transportation facilities or carriers available to the general public, (ii) provision of paratransit or special transportation services for persons with disabilities, or (iii) both. All persons with

disabilities in the jurisdiction's service area who, by reason of their disabilities, are unable to use the service for the general public shall be eligible to use such paratransit or special transportation service. No fee that exceeds the fee charged to the general public shall be charged a person with a disability for the use of the same transportation facilities or carriers available to the general public. Paratransit or special transportation service for persons with disabilities may charge fees to such persons comparable to the fees charged to the general public for similar service in the jurisdiction service area, taking into account especially the type, length, and time of trip. Any variance between special service and regular service fares shall be justifiable in terms of actual differences between the two kinds of service provided.

D. Nothing in this title shall be construed to require retrofitting of any public transit equipment or to require the retrofitting, renovation, or alteration of buildings or places to a degree more stringent than that required by the applicable building code in effect at the time the building permit for such building or place is issued.

E. Every totally or partially blind person shall have the right to be accompanied by a dog in harness trained as a guide dog, every person who is deaf or hard of hearing shall have the right to be accompanied by a dog trained as a hearing dog on a blaze orange leash, and every mobility-impaired or otherwise disabled person shall have the right to be accompanied by a dog trained as a service dog in a harness, backpack, or vest identifying the dog as a trained service dog in any of the places listed in subsection B without being required to pay an extra charge for the dog, provided that he shall be liable for any damage done to the premises or facilities by such dog. The provisions of this section shall apply to persons accompanied by a dog that is in training, at least six months of age, and is (i) in harness, provided such person is an experienced trainer of guide dogs or is conducting continuing training of a guide dog; (ii) on a blaze orange leash, provided such person is an experienced trainer of hearing dogs or is conducting continuing training of a hearing dog; (iii) in a harness, backpack, or vest identifying the dog as a trained service dog, provided such person is an experienced trainer of service dogs or is conducting continuing training of a service dog; (iv) wearing a jacket identifying the recognized guide, hearing, or service dog organization, provided such person is an experienced trainer of the organization identified on the jacket; or (v) the person is part of a three-unit service dog team and is conducting continuing training of a service dog.

Code 1950, § 63.1-171.2; 1972, c. 156; 1979, c. 207; 1985, c. 421, § 51.01-44; 1987, c. 500; 1989, c. 326; 1994, c. [108](#); 2001, c. [443](#); 2008, cc. [431](#), [506](#); 2012, cc. [803](#), [835](#); 2014, c. [616](#); 2019, c. [288](#).

§ 51.5-44.1. Fraudulent representation of a service dog or hearing dog; penalty.

Any person who knowingly and willfully fits a dog with a harness, collar, vest, or sign, or uses an identification card commonly used by a person with a disability, in order to represent that the dog is a service dog or hearing dog to fraudulently gain public access for such dog pursuant to provisions in § [51.5-44](#) is guilty of a Class 4 misdemeanor.

2016, c. [575](#).

§ 51.5-45. Right of persons with disabilities to housing accommodations.

A. All persons with disabilities unrelated to their ability to acquire, rent, or maintain property shall be entitled to full and equal opportunity to acquire, as other members of the general public, any housing accommodations offered for sale, rent, lease, or compensation, subject to the conditions and limitations established by law and applying alike to all persons. "Housing accommodations" for the purpose of this section means any real property, or portion thereof, which is used or occupied or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings but does not include any single family residence the occupant or owner of which rents, leases, or furnishes for compensation not more than one room therein.

B. Every visually impaired person who has a guide dog, every person who is deaf or hard of hearing and has a hearing dog, and every mobility-impaired or otherwise disabled person with a service dog shall be entitled to full and equal access with such dog to all housing accommodations provided for in this section. He shall not be required to pay extra compensation for such dog but shall be liable for any damage done to the premises by such dog.

C. Nothing in this section shall require any person offering for sale, renting, leasing, or providing for compensation real property to modify that real property or provide a higher degree of care for a person with a disability than for a person who is not disabled, except as provided in § [36-99.5](#), nor shall anything in this section require any person who is selling, renting, leasing, or providing for compensation real property to sell, rent, lease, or provide such property to any person who would constitute a direct threat to the property or safety of others.

Code 1950, § 63.1-171.7; 1972, c. 156; 1979, c. 207; 1984, c. 753; 1985, c. 421, § 51.01-45; 1987, c. 500; 2014, c. [616](#); 2019, c. [288](#).

§ 51.5-46. Remedies.

A. Any circuit court having jurisdiction and venue pursuant to Title 8.01, on the petition of any person with a disability, shall have the right to enjoin the abridgement of rights set forth in this chapter and to order such affirmative equitable relief as is appropriate and to award compensatory damages and to award to a prevailing party reasonable attorney fees, except that a defendant shall not be entitled to an award of attorney fees unless the court finds that the claim was frivolous, unreasonable or groundless, or brought in bad faith. Compensatory damages shall not include damages for pain and suffering. Punitive damages shall not be awarded.

B. An action may be commenced pursuant to this section any time within one year of the occurrence of any violation of rights under this chapter. However, such action shall be forever barred unless such claimant or his agent, attorney or representative has commenced such action or has filed by registered mail a written statement of the nature of the claim with the potential defendant or defendants within 180 days of the occurrence of the alleged violation. Any liability for back pay shall not accrue from a date more than 180 days prior to the filing of the notice or the initial pleading in such civil action and shall be limited to a total of 180 days, reduced by the amount of other earnings over the same period. The petitioner shall have a duty to mitigate damages.

C. The relief available for violations of this chapter shall be limited to the relief set forth in this section.

1985, c. 421, § 51.01-46; 1990, c. 458; 1992, c. 627; 2002, c. [572](#); 2005, c. [681](#); 2013, c. [571](#); 2015, c. [710](#).

Chapter 10 - LOCAL DISABILITY SERVICES BOARDS

§§ 51.5-47 through 51.5-52. Repealed.

Repealed by Acts 2011, cc. [41](#) and [51](#), cl. 2.

Chapter 11 - ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

§ 51.5-53. Definitions.

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

"Assistive technology" means any item, piece of equipment or device that enables an individual with a disability to improve his or her independence and quality of life.

"Authority" means the Assistive Technology Loan Fund Authority established pursuant to this chapter.

"Board" means the Board of Directors of the Assistive Technology Loan Fund Authority.

"Bonds" means notes, bonds, certificates, and other evidence of indebtedness or obligation of the Authority.

"Fund" means the Assistive Technology Loan Fund established pursuant to this chapter.

"Qualifying borrower" means any person who demonstrates that a loan made pursuant to this chapter will assist one or more persons with disabilities to improve their independence or become more productive members of the community. The person must demonstrate creditworthiness and repayment abilities to the satisfaction of the Board.

1995, c. [812](#); 2004, c. [728](#).

§ 51.5-54. Declaration of purpose; Assistive Technology Loan Fund Authority established.

A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth a need to provide assistance with loans and in the purchase of assistive technology equipment, or other equipment, which is designed to enable persons with disabilities to become more independent or more productive members of the community with an improved quality of life.

B. To achieve the objectives of subsection A, the Assistive Technology Loan Fund Authority is hereby created, with such powers and duties as are set forth in this chapter, as a public body corporate and as a political subdivision of the Commonwealth.

1995, c. [812](#); 2002, c. [19](#).

§ 51.5-55. Membership of Board; terms, compensation, and expenses.

A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Directors of the Authority. The Board shall consist of 12 members as follows: the Secretary of Health and Human Resources or his designee; an employee of the Wilson Workforce and Rehabilitation Center; an experienced consumer lender; a certified public accountant;

two persons with investment finance experience; and six persons with a range of disabilities. The citizen members shall be appointed by the Governor and confirmed by the General Assembly. The Board shall annually elect a chairman from among its members. Board members shall receive no salaries but shall be reimbursed for all reasonable and necessary expenses incurred by them in the performance of their duties on behalf of the Authority.

B. The 10 citizen members of the Board shall be appointed for four-year terms, except that appointments to fill vacancies shall be made for the unexpired terms. Representatives of state agencies shall serve coincident with the term of the Governor. No member appointed by the Governor shall be eligible to serve more than two complete terms in succession.

C. Meetings of the members of the Board shall be held at the call of the chairman or whenever six members so request. The Board may delegate to a loan committee of at least six members the authority to review and approve or deny loan applications based upon information provided to or obtained by the Board, in accordance with criteria established by the Board. In any event, the Board shall meet as necessary to attend to the business of the Authority.

1995, c. [812](#); 1996, c. [930](#); 2000, cc. [21](#), [294](#); 2002, c. [19](#); 2012, c. [483](#); 2015, c. [542](#).

§ 51.5-56. Powers of the Authority.

The Authority is hereby granted all powers necessary or appropriate to carry out and effectuate its purposes including, but not limited to, the following powers to:

1. Have perpetual existence as a public body corporate and as a political subdivision of the Commonwealth;
2. Adopt, amend, and repeal bylaws, rules and regulations not inconsistent with this chapter, to regulate its affairs and to carry into effect the powers and the purposes of the Authority and for the conduct of its business. All regulations of the Authority shall be promulgated in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.);
3. Sue and be sued in its name;
4. Have an official seal and alter it at will;
5. Establish, administer, manage, including the creation of reserves, and make expenditures from the Fund for the sole purpose of providing loans to individuals with disabilities for the acquisition of assistive technology, other equipment, or other authorized purposes;
6. Administer the Fund established by this chapter and contract with the State Treasurer and other state or community-based entities or groups working with persons with disabilities for such assistance in administering the loan program as the Board may require;
7. Maintain an office at such place or places within the Commonwealth as it may designate;
8. Make and execute contracts and all other instruments necessary and convenient for the performance of its duties and the exercise of its powers under this chapter upon such terms and

conditions as it deems appropriate, including contracts with appropriate state or community-based entities or groups dealing with disabled persons;

9. Employ office personnel, advisers, consultants, professionals and agents as may be necessary in its judgment, and to fix their compensation. The Board shall appoint an executive director who is subordinate to the Board, and the Board shall ensure that the executive director complies with all Board, regulatory, and statutory directives. Legal services in civil matters shall be rendered and performed by the Attorney General in accordance with Chapter 5 (§ [2.2-500](#) et seq.) of Title 2.2, and special counsel may only be employed with approval and appointment by the Attorney General or as may otherwise be authorized by § [2.2-510](#);

10. Procure insurance against any loss in connection with its property and other assets, including, but not limited to, loans in such amounts and from such insurers as it may deem advisable;

11. Receive, hold, accept, and administer from any source gifts, grants, aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this chapter (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to, gifts, grants, bequests of money or devises from any source, including the federal government or any of its agencies or instrumentalities for the purposes of this chapter. Unless otherwise restricted by the terms of the gift or bequest, the Board is authorized to sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

12. Borrow money to carry out the purposes of this chapter and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof, provided that, any moneys borrowed, whether through the use of bonds or other indebtedness, may be secured or paid solely from funds received pursuant to subdivision 11 or funds received from the fees and charges imposed by the Authority pursuant to subdivision 14;

13. Use any fund or funds of the Authority for any and all expenses to be paid by the Authority including, by way of example, but not by limitation, any and all expenses for administrative, legal, and other services;

14. Collect fees and charges, as the Authority determines to be reasonable, in connection with its loans, insurance, guarantees, commitments and servicing thereof;

15. Take any action necessary or convenient for the exercise of the powers granted by this chapter or reasonably implied from them; and

16. Maintain the confidentiality of financial, medical, rehabilitative and other personal information submitted to or maintained by the Authority concerning applicants for or recipients of loan funds. Such information shall not be subject to the mandatory disclosure provisions of § [2.2-3704](#) or the public meeting requirements of § [2.2-3711](#) of the Virginia Freedom of Information Act.

1995, c. [812](#); 2002, c. [19](#); 2004, c. [728](#); 2006, cc. [344](#), [380](#).

§ 51.5-57. Assistive Technology Loan Fund established.

A. There is hereby established a permanent and perpetual fund to be known as the Assistive Technology Loan Fund, consisting of such moneys as may be appropriated by the General Assembly from time to time, gifts, bequests, endowments or grants from the United States government, its agencies and instrumentalities, all receipts by the Fund from loans made by it, all income from the investment of moneys held in the Fund, and any other available sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

B. The Fund shall be used to provide loans to individuals with disabilities within the Commonwealth for the purpose of acquiring assistive technology, other equipment, or other authorized purposes designed to help such individuals become more independent. The Fund shall also be used to buy down interest rates of lending institutions making such loans and provide a loan guarantee for loans made by lending institutions for such purposes. The Fund shall be used only when, in the discretion of the Board, loan applicants have met eligibility criteria and the release of money is deemed appropriate.

C. The Fund shall be administered and managed by the Authority. The costs and expenses of maintaining, servicing and administering the Fund may be paid out of amounts in the Fund.

1995, c. [812](#); 2002, c. [19](#).

§ 51.5-58. Provision of loans.

A. The Board may enter into loan agreements with any qualifying borrower who demonstrates (i) that the loan will be used to acquire assistive technology, other equipment, or other authorized purposes designed to help one or more persons with disabilities to improve their independence or become more productive members of the community and (ii) who has the ability to repay the loan.

B. The amount and terms of any loan shall be determined by the Board.

C. All loans must be repaid on such terms and at such interest rates as the Board may, from time to time, determine to be appropriate in accordance with a procedure prescribed by regulations adopted pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq.).

1995, c. [812](#); 2002, c. [19](#).

§ 51.5-59. Annual report; Auditor of Public Accounts to audit books and accounts.

The Board shall submit an annual report that includes a statement of the receipts, disbursements, and current investments of the Fund for the preceding year to the Governor and the General Assembly. The report shall set forth a complete operating and financial statement covering the operation of the Fund during the year, including any loan fund or loan guarantee fund the Authority administers or manages. The Auditor of Public Accounts or his legally authorized representatives shall audit the books

and accounts of the Authority and any loan fund or loan guarantee fund the Authority administers or manages as determined necessary by the Auditor of Public Accounts.

1995, c. [812](#); 2006, cc. [344](#), [380](#); 2018, cc. [57](#), [307](#).

Chapter 12 - Persons Who Are Blind and Vision Impaired

Article 1 - General Provisions

§ 51.5-60. Definitions.

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

"Blind person" means a person who has central visual acuity of 20/200 or less in the better eye, as measured with best correction, or a limitation in the field of vision of the better eye, such that the widest diameter of the visual field subtends an angle of 20 degrees or less.

"Board" means the Board for the Blind and Vision Impaired.

"Business enterprise" means any business other than a vending stand.

"Commissioner" means the Commissioner of the Department for the Blind and Vision Impaired.

"Custodian" means any person or group of persons having the authority to grant permission for the installation and operation of vending stands and other business enterprises.

"Department" means the Department for the Blind and Vision Impaired.

"Direct labor" means all work required for the preparation, processing and assembling of goods or articles including the packaging and packing thereof, but not including time spent in the supervision, administration, inspection and shipping of such operations, or in the production of component materials by other than blind persons.

"Goods or articles made by blind persons" means goods or articles in the manufacture of which not less than seventy-five percent of the total hours of direct labor is performed by a blind person or persons.

"Nominee" means any nonprofit corporation familiar with work for the blind and in the placement of the blind.

"Public and private buildings and other properties throughout the Commonwealth" means (i) buildings, land, or other property owned by or leased to the Commonwealth other than rights-of-way for interstate highways or (ii) buildings, land, or other property owned by or leased to a political subdivision, including a municipality, or a corporation or individual.

"Vending machine" means a coin or currency operated machine that dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending stand" means an installation in any public or private building for the sale of newspapers, periodicals, confections, tobacco products, soft drinks, ice cream, wrapped foods and such other articles as may be approved by the custodian thereof and the Department.

Code 1950, §§ 63-204.1, 63-204.25; 1954, c. 71; 1966, c. 169; 1968, c. 578, §§ 63.1-142, 63.1-166; 1970, c. 50; 1980, c. 4, § 63.1-69.1; 1984, c. 498; 1985, c. 255; 1988, c. 126; 1990, c. 385, § 63.1-75.1; 1992, c. 755; 1993, c. 923; 2000, c. [498](#); 2002, c. [747](#); 2019, c. [88](#).

Article 2 - BOARD FOR THE BLIND AND VISION IMPAIRED

§ 51.5-61. Appointment, terms and qualifications of members of Board; eligibility for reappointment; quorum.

The Board for the Blind and Vision Impaired is continued. The Board shall consist of seven members who shall be appointed by the Governor for terms of four years. No person shall be eligible to serve more than two successive terms, provided that a person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms. Vacancies occurring on the Board shall be filled by the Governor for the unexpired term. All appointments hereunder shall be made without reference to party affiliations, but solely on account of the fitness of the appointees to discharge their duties as members of the Board. The membership of the Board, however, shall at all times include four persons who are blind. Four members of the Board shall constitute a quorum for the transaction of any lawful business. Annually, the Board shall elect one of its blind members as chairman, who shall preside at its meetings and shall have power to call meetings when he deems it advisable.

Code 1950, §§ 63-162, 63-163; 1954, c. 71; 1962, c. 161; 1966, c. 43; 1968, c. 578, §§ 63.1-68, 63.1-69; 1980, c. 4; 1984, c. 498; 1988, c. 125; 1995, c. [392](#); 2000, c. [498](#); 2002, c. [747](#).

§ 51.5-62. Powers and duties of Board; form of materials.

A. The Board shall exercise the following general powers and duties:

1. Advise the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to and the protection of the rights of persons with disabilities on matters relating to this title, and on such other matters as the Governor, Secretary, Commissioner, or the General Assembly may request; and
2. Review and comment on policies, budgets and requests for appropriations for the Department prior to their submission to the Secretary of Health and Human Resources and the Governor and on applications for federal funds.

B. Material submitted by the Commissioner for review and comment by the Board, when practicable, shall be in the medium or format suitable for review by each member of the Board.

1992, c. 755, § 63.1-68.1; 1995, c. [392](#); 2002, c. [747](#).

§ 51.5-63. Board to administer institutional fund.

The Board is authorized to create and hold an institutional fund for its exclusive use and purposes into which it may deposit the proceeds of any gift, grant, bequest, allotment, or devise of any nature

received from private sources. Such fund shall be subject to the Uniform Prudent Management of Institutional Funds Act (§ [64.2-1100](#) et seq.). The fund and the income from such fund shall not be subject to the provisions of § [2.2-1802](#). The availability of such fund shall not be taken into consideration in, nor used to reduce, state appropriations or payments, but such funds shall be used in accordance with the wishes of the donors thereof to strengthen the services rendered to the blind and vision impaired of this Commonwealth.

Code 1950, § 63-167.1; 1966, c. 259; 1968, c. 578, § 63.1-74; 1980, c. 4; 1989, c. 267; 1992, c. 755; 2002, c. [747](#); 2008, c. [184](#).

Article 3 - DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

§ 51.5-64. Commissioner of Department; personnel.

The supervision of the Department shall be the responsibility of the Commissioner of the Department under the direction and control of the Governor. The Commissioner shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor. The Commissioner of the Department shall employ such personnel as may be required to carry out the purposes of this chapter.

Code 1950, §§ 63-162, 63-163; 1954, c. 71; 1962, c. 161; 1966, c. 43; 1968, c. 578, §§ 63.1-68, 63.1-69; 1980, c. 4; 1984, c. 498; 1988, c. 125; 1995, c. [392](#); 2000, c. [498](#); 2002, c. [747](#).

§ 51.5-65. Functions, duties and powers of Commissioner.

In addition to the functions, duties and powers conferred and imposed upon the Commissioner by other provisions of law, he shall:

1. Ensure that the provisions of this chapter are properly administered;
2. Assist and cooperate with local authorities in the administration of this chapter;
3. Prescribe the form of applications, reports, affidavits and such other forms as shall be required in the administration of this chapter and the required schedule for submission thereof;
4. Cooperate with the federal Department of Education and other agencies of the United States in relation to matters set forth in this chapter; and
5. Adopt regulations to carry out the applicable provisions of this chapter.

Code 1950, § 63-178; 1968, c. 578, § 63.1-85; 1975, c. 524; 1980, c. 4; 1984, cc. 498, 781; 1992, c. 755; 2002, c. [747](#).

§ 51.5-66. Authority to receive grants-in-aid and gifts.

The Department is authorized to receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies thereof, and from any and all other sources, gifts and grants-in-aid, made for the purpose of providing, or to assist in providing, services to the blind or vision impaired, including expenses of administration.

The Department is designated as a state agency for the purpose of cooperating with the federal government in carrying out the provisions and purposes of federal laws providing for the vocational rehabilitation and other rehabilitation of eligible blind and vision impaired persons. The Department is authorized and directed to cooperate with the federal government in the administration of such laws of Congress; to prescribe and provide such courses of career and technical education and other services as may be necessary for the rehabilitation of blind and vision impaired persons and provided for the supervision of such training and services; and to direct the disbursement and administer the use of all funds provided by the federal government to this Commonwealth for the vocational rehabilitation and other rehabilitation of such persons. All such funds shall be paid into the state treasury.

Code 1950, §§ 63-167.1, 63-176; 1966, c. 259; 1968, c. 578, §§ 63.1-74, 63.1-83; 1975, c. 524; 1979, c. 130; 1980, c. 4; 1984, c. 781; 1989, c. 267; 1992, c. 755; 2002, c. [747](#).

§ 51.5-67. Donation of equipment.

The Department shall retain title to items of nonexpendable equipment purchased by the Department for individuals or groups of individuals, in accordance with this chapter and the federal Rehabilitation Act, while such equipment has an undepreciated monetary value. Once the equipment has reached a depreciated value of zero, the Department may donate the equipment to the individual or group of individuals then authorized to use it by the Department. The donation shall be consistent with the public purpose of promoting the rehabilitation of persons with disabilities. The Department, in concert with the Department of Accounts, shall establish criteria for depreciation of such equipment in accordance with generally accepted principles and maintain depreciation records. The Department shall report a donation pursuant to this section to the Division of Purchases and Supply and to the Auditor of Public Accounts. Nothing in this section shall be construed to excuse the Department from complying with § [2.2-1124](#) except for equipment donated pursuant to this section.

1989, c. 267, § 63.1-83.1; 2002, c. [747](#).

§ 51.5-68. Repealed.

§§ [51.5-68](#), [51.5-69](#). Repealed by Acts 2014, c. 572, cl. 2.

§ 51.5-70. Establishment of standards of personnel and service.

The Department shall, as to matters relating to rehabilitation of the blind or vision impaired, establish minimum standards of service and personnel based upon training, experience and general ability for the personnel employed by the Department and the Commissioner in the administration of this chapter and adopt necessary regulations to maintain such standards, including such regulations as may be embraced in the development of a system of personnel administration meeting requirements of the federal Department of Education.

Code 1950, § 63-172; 1968, c. 578, § 63.1-79; 1975, c. 524; 1980, c. 4; 1984, cc. 498, 781; 1992, c. 755; 2002, c. [747](#).

§ 51.5-71. State Rehabilitation Council for the Blind and Vision Impaired created.

The State Rehabilitation Council for the Blind and Vision Impaired is hereby created to provide advice to the Department for the Blind and Vision Impaired regarding vocational services provided pursuant to Title I and Title VI of the federal Rehabilitation Act. Membership and duties shall be constructed according to federal provisions.

1994, c. [81](#), § 63.1-70.1; 2000, c. [498](#); 2002, cc. [46](#), [747](#).

§ 51.5-72. Establishment of rehabilitative manufacturing and service industries; expenditures.

The Department may (i) establish, equip and maintain rehabilitative manufacturing and service industries for the employment of suitable blind persons, (ii) pay its employees suitable wages and contribute five percent of the creditable compensation of those employees who elect to participate in a before-tax payroll deduction to a tax deferred retirement savings plan established under the United States Internal Revenue Code for nonprofit agencies, and (iii) devise means for the sale and distribution of the products thereof. However, any expenditures made under §§ [51.5-63](#), [51.5-66](#), and [51.5-72](#) through [51.5-76](#) shall not exceed the annual appropriation or the amount received by way of bequest or donation during any one year, and no part of the funds appropriated by the Commonwealth for the purposes of §§ [51.5-63](#), [51.5-66](#), and [51.5-72](#) through [51.5-76](#) shall be used for solely charitable purposes.

Code 1950, § 63-167; 1968, c. 578, § 63.1-73; 1980, c. 4; 1990, c. 740; 1996, cc. [711](#), [731](#); 2002, c. [747](#); 2004, c. [13](#); 2014, c. [572](#); 2018, c. [184](#).

§ 51.5-72.1. The State Advisory Board for the Virginia Industries for the Blind.

A. The State Advisory Board for the Virginia Industries for the Blind (the Board) is established as an advisory board in the executive branch of state government. The purpose of the Board is to provide advice for creating opportunities in career development and employment-related services to blind and visually impaired individuals.

B. The Board shall consist of 12 nonlegislative citizen members appointed by the Board for the Blind and Vision Impaired as follows: (i) three persons who shall be blind persons or parents of blind persons; (ii) three representatives of human service agencies; and (iii) six persons who represent local business and manufacturing entities and other employees. Members shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

C. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the voting members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

D. Members shall not receive compensation for their service or travel expenses.

E. The Board shall have the following powers and duties:

1. Advise managers of the manufacturing plants on business trends, product development, contract opportunities, and other business matters;
2. Review and comment on fiscal and budgetary matters concerning the operations of the manufacturing and service industries; and
3. Perform such other advisory acts that are in accord with the purposes of this section.

F. The Department for the Blind and Vision Impaired shall provide staff support to the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

2004, c. [13](#).

§ 51.5-73. Rehabilitation Center for the Blind and Vision Impaired; operation and maintenance.

The Department shall have the authority and responsibility for the operation and maintenance of the Virginia Rehabilitation Center for the Blind and Vision Impaired for the purpose of providing services to eligible blind and vision impaired individuals.

1978, c. 143, § 63.1-73.1; 1980, c. 4; 1998, c. [112](#); 2000, c. [498](#); 2002, c. [747](#).

§ 51.5-74. Operation of library service for persons with disabilities; agreement with The Library of Virginia.

The Department is hereby authorized to maintain and operate a library service for persons who are blind, vision impaired, and disabled who are eligible for such services pursuant to the Pratt-Smoot Act (P.L. 89-522). Special materials that are provided through this program may include but are not limited to sound reproduction machines such as tape players and record players; talking book records; magnetic tapes; large print books; Braille books; book holders; page turners; captioned films for the deaf; and special electronic devices used as reading aids. The Department may enter into an agreement or agreements with The Library of Virginia for the purpose of receiving federal funds for the operation of this program.

Code 1950, § 63-167.2; 1968, c. 19, § 63.1-74.1; 1980, c. 4; 1992, c. 755; 1994, c. [64](#); 2002, c. [747](#).

§ 51.5-75. Use of earnings of rehabilitative manufacturing and service industries; record of receipts and expenditures.

In furtherance of the purposes of §§ [51.5-63](#), [51.5-66](#), and [51.5-72](#) through [51.5-76](#), the Department shall have authority to use any receipts or earnings that accrue from the operation of rehabilitative manufacturing and service industries as provided in such sections, but a detailed statement of receipts or earnings and expenditures shall be carefully kept.

Code 1950, § 63-168; 1968, c. 578, § 63.1-75; 1980, c. 4; 2002, c. [747](#); 2004, c. [58](#); 2014, c. [572](#); 2018, c. [184](#).

§ 51.5-76. Cooperation with other state agencies.

The Department shall cooperate with the State Board of Health and other state agencies in the adoption and enforcement of blindness prevention efforts.

Code 1950, § 63-166; 1968, c. 578, § 63.1-72; 1980, c. 4; 2002, c. [747](#).

§ 51.5-77. Cooperation with federal agencies.

The Department shall cooperate with the federal Department of Education and any other agencies of the United States, in any reasonable manner that may be necessary for this Commonwealth to qualify for and to receive grants or aid from such agencies for social services, rehabilitation, personal adjustment, library and education services to the blind or vision impaired in conformity with the provisions of this chapter, including the making of such reports in such form and containing such information as such agencies of the United States may require, and to comply with such provisions as such agencies of the United States may require to assure the correctness and verification of such reports.

Code 1950, § 63-174; 1968, c. 578, § 63.1-81; 1975, c. 524; 1980, c. 4; 1984, c. 781; 1992, c. 755; 2002, c. [747](#).

Article 4 - BUSINESS ENTERPRISES FOR THE BLIND

§ 51.5-78. Operation by Department.

The Department is hereby authorized to operate vending stands and other business enterprises in public and private buildings for the purpose of providing blind persons with employment, enlarging the economic opportunities of the blind, and stimulating the blind to make themselves self-supporting.

Code 1950, § 63-204.2; 1968, c. 578, § 63.1-143; 2002, c. [747](#).

§ 51.5-79. Operation by blind persons.

Blind persons under the provisions of this article shall be authorized to operate vending stands and other business enterprises on any property where, in the discretion of the owner or custodian of the property, vending stands and other business enterprises may be properly and satisfactorily operated. No fee shall be charged to any blind person for operating a vending stand in or on any buildings, land or other property owned by or leased to the Commonwealth other than rights-of-way for interstate highways and property of community colleges; provided, however, that such blind vendors shall be responsible to the Commonwealth for the charges they incur for utilities.

Code 1950, § 63-204.3; 1968, c. 578, § 63.1-144; 1994, c. [906](#); 2002, c. [747](#).

§ 51.5-80. Contract with nominee to provide equipment and merchandise.

The Department may contract with any nominee to provide all necessary equipment and merchandise for the operation of the vending stand and business enterprise program in the rehabilitation of the blind.

Code 1950, § 63-204.4; 1968, c. 578, § 63.1-145; 2002, c. [747](#).

§ 51.5-81. Contract with nominee to furnish services.

The Department may contract with the nominee, as agent of the Department, to furnish services, including the purchase of vending stand and other business enterprise equipment and stock, the collection of the funds required to be set aside for the purposes specified in § [51.5-97](#) and the keeping of accounts.

Code 1950, § 63-204.5; 1968, c. 578, § 63.1-146; 2002, c. [747](#).

§ 51.5-82. Contracts with federal agencies for installation and supervision.

The Department may contract with agencies of the federal government for the installation and supervision of vending stands and business enterprises on federal property in this Commonwealth.

Code 1950, § 63-204.6; 1968, c. 578, § 63.1-147; 2002, c. [747](#).

§ 51.5-83. Surveys of business enterprise opportunities.

The Department shall make surveys of vending stand and other business enterprise opportunities for blind persons in public and private buildings and other properties throughout the Commonwealth.

Code 1950, § 63-204.7; 1968, c. 578, § 63.1-148; 2002, c. [747](#).

§ 51.5-84. Licensure of blind adult residents as operators.

The Department shall be the agency to license blind persons who are residents of the Commonwealth and who are at least eighteen years of age for the operation of vending stands and other business enterprises.

In licensing operators, the Department shall give preference to those blind persons who are in need of employment. Persons licensed shall be qualified to operate such vending stands and other business enterprises.

Code 1950, §§ 63-204.8, 63-204.11; 1968, c. 578, §§ 63.1-149, 63.1-152; 1972, c. 824; 1989, c. 314; 2002, c. [747](#).

§ 51.5-85. Selection of location and operator of enterprise; supervision.

The Department shall be the agency to select the location of the vending stand and other business enterprise, to select the operator, and to provide all necessary supervision of the operator and the vending stand and other business enterprise.

Code 1950, § 63-204.9; 1968, c. 578, § 63.1-150; 2002, c. [747](#).

§ 51.5-86. Other general duties of the Department.

The Department shall perform such other duties as may be necessary and proper to carry out the provisions of this article.

Code 1950, § 63-204.10; 1968, c. 578, § 63.1-151; 2002, c. [747](#).

§ 51.5-87. Revocation of privilege to operate enterprise.

All such privileges to operate vending stands and other business enterprises shall be revocable by the Department in accordance with departmental regulations.

Code 1950, § 63-204.12; 1968, c. 578, § 63.1-153; 1992, c. 755; 2002, c. [747](#).

§ 51.5-88. Selection of location and type of enterprise with approval of custodian.

The Department, with the approval of the custodian having charge of the property on which the vending stand and other business enterprise is to be located, shall select the location for such vending stand and other business enterprise and the type of vending stand and other business enterprise to be provided.

Code 1950, § 63-204.13; 1968, c. 578, § 63.1-154; 2002, c. [747](#).

§ 51.5-89. Placement of blind persons in vacancies by Department; vending stands in Capitol; regulations.

When any vending stand or other business enterprise operated in a public building becomes vacant or a vacancy is created through the construction or acquisition of new public buildings or renovation or expansion of existing public buildings, the existence of such vacancies shall be made known to the Department. The Department acting on behalf of the blind shall have first priority in assuming the operation of such vending stand or business enterprise through placement of a properly trained blind person in such vacancy. This section shall not apply to vending stands or other business enterprises operated in (i) local government buildings, (ii) the State Capitol, or (iii) the legislative office buildings that shall be subject to the control of the Rules Committee of the House of Delegates and the Rules Committee of the Senate. Notwithstanding the provisions of this section, any locality may, by ordinance or resolution, provide for the Department to have first priority in assuming the operation of any vending stand or business enterprise located in a local government building.

Code 1950, § 63-204.14; 1950, p. 6; 1968, c. 578, § 63.1-155; 1978, c. 497; 1979, c. 528; 1992, c. 755; 2002, c. [747](#); 2012, cc. [805](#), [836](#).

§ 51.5-90. Providing blind persons with equipment and merchandise.

The Department shall provide blind persons licensed under this article with such vending stand and other business enterprise equipment and a stock of suitable articles to be vended therefrom as may be necessary.

Code 1950, § 63-204.15; 1968, c. 578, § 63.1-156; 1989, c. 314; 2002, c. [747](#).

§ 51.5-91. Ownership of vending stands and other equipment.

The ownership of all vending stands and other business enterprise equipment provided under this article shall, however, remain in the Department, or in the nominee of the Department.

Code 1950, § 63-204.16; 1968, c. 578, § 63.1-157; 2002, c. [747](#).

§ 51.5-92. Reports by nominee.

The Department shall require the nominee to make such reports in such form and containing such information as the Department may from time to time require.

Code 1950, § 63-204.17; 1968, c. 578, § 63.1-158; 2002, c. [747](#).

§ 51.5-93. Requiring nominee to comply with provisions.

The Department shall require the nominee to comply with such provisions as the Department may from time to time find necessary.

Code 1950, § 63-204.18; 1968, c. 578, § 63.1-159; 2002, c. [747](#).

§ 51.5-94. Suspension of nominee; continued operation of program.

If the Department, after reasonable notice and opportunity for hearing to the nominee, finds that the nominee has failed to comply substantially with the provisions of this article or the regulations issued

thereunder, it shall notify the nominee that its designation as nominee is suspended until the Department is satisfied that there will no longer be any such failure. Until the Department is so satisfied, or in the event the nominee shall cease to exist, the Department may make such provision as it deems proper for the continued operation of the program established under the provisions of this article.

Code 1950, § 63-204.19; 1968, c. 578, § 63.1-160; 2002, c. [747](#).

§ 51.5-95. Regulations for administration of article.

The Commissioner is authorized to adopt regulations for the administration of this article which shall, among other things, provide for the acquisition and disposition of the vending stand and other business enterprise equipment and other assets used in the operations pursuant to this article.

Code 1950, § 63-204.20; 1968, c. 578, § 63.1-161; 1992, c. 755; 2002, c. [747](#).

§ 51.5-96. Requiring performance of duties by officers and employees.

The Department may require of its officers and employees the performance of such duties to effectuate this article as it deems proper.

Code 1950, § 63-204.21; 1968, c. 578, § 63.1-162; 2002, c. [747](#).

§ 51.5-97. Funds set aside from proceeds of business enterprises.

The Department shall set aside or cause to be set aside from the net proceeds of the operations authorized by this article such funds as may be necessary for the purpose of (i) maintenance and replacement of equipment, (ii) purchase of new equipment, (iii) management services, (iv) assuring a fair minimum return to vendors and (v) the establishment and maintenance of retirement or pension funds, health insurance contributions and the provision for paid sick leave and vacation time in accordance with the Randolph-Sheppard Act Amendments of 1974 (P.L. 93-516).

Code 1950, § 63-204.22; 1968, c. 578, § 63.1-163; 1979, c. 96; 2002, c. [747](#).

§ 51.5-98. Exemption from taxation; collection and remittance of sales and meals taxes.

A. Except as hereinafter provided, the Department, its nominee, and blind persons operating vending stands or other business enterprises under the jurisdiction of the Department shall be exempt from all state and local taxes.

B. Notwithstanding the provisions of subsection A, blind persons operating vending stands or other business enterprises under the jurisdiction of the Department shall be liable for the collection and remittance of any state or local retail sales taxes imposed or authorized by Chapter 6 (§ [58.1-600](#) et seq.) of Title 58.1 and local meals taxes imposed or authorized by Chapter 38 (§ [58.1-3800](#) et seq.) of Title 58.1 that are actually collected or collectible from the purchaser unless the property on which such vending stands or other business enterprises are located has been acquired and used by the United States for any military or naval purpose within the Commonwealth and a post exchange or tax exempt concession is located and operated on such land, in which case such blind persons shall not be liable for the collection and remittance of such state or local retail sales tax or local meals tax.

C. Nothing in this section shall be construed to relieve any blind person operating vending stands or other business enterprises under the jurisdiction of the Department from the imposition of (i) local income taxes, (ii) state income taxes or (iii) other taxes imposed that are unrelated to the operation of such vending stands or other business enterprises.

Code 1950, § 63-204.23; 1968, c. 578, § 63.1-164; 1970, c. 198; 1989, c. 314; 2002, c. [747](#).

§ 51.5-99. Appeal.

Any person aggrieved by any act of the Department or of its agents or employees or of its nominee in the administration of this article may appeal such act in accordance with Article 5 (§ [2.2-4025](#) et seq.) of the Administrative Process Act.

Code 1950, § 63-204.24; 1968, c. 578, § 63.1-165; 1996, c. [573](#); 2002, c. [747](#).

§ 51.5-100. Operation of vending machines at rest areas on interstate highways.

A. The Department, in cooperation with the Department of Transportation, is authorized to operate vending machines at rest areas on the interstate highways in the Commonwealth and to use the net proceeds from such operations to establish and operate vending stands and other business enterprises as defined in Article 1 (§ [51.5-60](#) et seq.) and to provide health insurance for blind vendors.

B. The Department of General Services shall conduct the procurement process for contracts for goods or services authorized by the Department under subsection A, including (i) preparing the solicitation document that will be used, (ii) the evaluating of responses to the issued solicitation, and (iii) making the award decision on the basis of the final scoring of bids or proposals.

1990, c. 385, § 63.1-75.1; 1992, c. 755; 1993, c. 923; 2002, c. [747](#); 2016, c. [596](#).

Article 5 - SALE OF GOODS MADE BY THE BLIND

§ 51.5-101. Registration of manufacturers and distributors of goods made by blind persons; authorization to use official stamp, label, etc.

To facilitate ready and authoritative identification of goods or articles made by blind persons, any person and any public or private institution or agency, firm, association or corporation engaged in the manufacture or distribution of goods or articles made by a blind person or persons shall apply to the Department for a registration and authorization to use an official imprint, stamp, symbol or label, designed or approved by the Department, to identify goods and articles as made by blind persons. Nothing in this article shall authorize the identification of goods or articles as made by blind persons when the labor performed by blind persons in connection therewith shall consist solely of the packaging or packing thereof as distinguished from the preparation, processing or assembling of such goods or articles; nor shall any package the contents of which are not blind-made carry the label "packaged by the blind" or words of similar import. The Department shall investigate each application, under regulations it shall adopt for the administration of this article, to assure that such person or organization is actually engaged in the manufacture or distribution of blind-made goods or articles. The Department may register, without investigation, nonresident individuals and out-of-state agencies,

firms, associations or corporations upon proof that they are recognized and approved by the state of their residence or organization pursuant to a law of such state imposing requirements substantially similar to those prescribed pursuant to this article. All registrations shall be valid for one year from date of issue. Nothing in this article shall be deemed to prohibit the offering for sale or sale by a blind person of an article or articles made by such blind person without application for registration or to require the labeling of such article or articles.

Code 1950, § 63-204.26; 1966, c. 169; 1968, c. 578, § 63.1-167; 2002, c. [747](#).

§ 51.5-102. Goods not to be represented as made by blind persons unless identified as such by label, stamp, etc.; what goods may be so identified.

No goods or articles made in this or any other state may be displayed, advertised, offered for sale or sold in this Commonwealth upon a representation that the same are made by blind persons unless the same are identified as such by label, imprint, stamp or symbol, and no such goods or articles may be so identified unless at least seventy-five per centum of the total hours of direct labor of producing such goods or articles shall have been performed by a blind person or persons.

Code 1950, § 63-204.27; 1966, c. 169; 1968, c. 578, § 63.1-168; 2002, c. [747](#).

§ 51.5-103. How goods made by blind persons to be stamped or labeled.

Any blind workman, or any public or private institution or agency, corporation, firm or association, registered with the Department pursuant to this article, engaged in the manufacture or distribution of articles of merchandise, made or manufactured by a blind person or persons, shall imprint or stamp upon such articles of merchandise or affix thereto labels containing the words, "made by a blind workman or made by the blind, or blind-made," to which shall be added the name of the manufacturer, the place of manufacture and such other information as the Department may prescribe.

Code 1950, § 63-204.28; 1966, c. 169; 1968, c. 578, § 63.1-169; 2002, c. [747](#).

§ 51.5-104. Use of words "State," "Commonwealth," or "Virginia."

No person, association, or corporation engaged in the sale of blind-made products may use the words "State," "Commonwealth," or "Virginia" in its company or corporate title unless such person, association, or corporation is actually an instrumentality of the Commonwealth.

Code 1950, § 63-204.29; 1966, c. 169; 1968, c. 578, § 63.1-170; 2002, c. [747](#).

§ 51.5-105. Certain acts declared misdemeanors.

Any person, firm, corporation, institution or association, who (i) shall use or employ an imprint, stamp, symbol or label issued or approved by the Department for the Blind and Vision Impaired or an imitation thereof without having registered with the Department, or (ii) who shall directly or indirectly by any means indicate or tend to indicate or represent that the goods or articles were made by a blind person or persons when in fact such goods or articles were not so made, or (iii) who violates any provision of [§ 51.5-104](#) shall be guilty of a misdemeanor.

Code 1950, § 63-204.30; 1966, c. 169; 1968, c. 578, § 63.1-171; 2002, c. [747](#).

Chapter 13 - DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

§ 51.5-106. Board established; appointment, terms and qualifications of members; meetings; chairman.

There is hereby continued an Advisory Board, hereinafter referred to as the Board, for the Department for the Deaf and Hard-of-Hearing.

The Board shall be composed of nine members appointed by the Governor as follows:

Four representatives of deafness-oriented professions concerned with the health, education, rehabilitation, mental health and welfare of the deaf and hard-of-hearing; four citizens who are deaf or hard-of-hearing; and one member who is a parent of a child who is deaf or hard-of-hearing. Appointments shall be for terms of four years. No person shall be eligible to serve more than two successive terms, except that a person appointed to fill a vacancy may serve two additional successive four-year terms. The Board shall meet at the call of the Chairman, who shall be selected by the Board from among its membership, but no less than four times a year.

1984, c. 670, § 63.1-85.1:1; 2002, c. [747](#).

§ 51.5-107. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To ensure the development of long-range programs and plans provided by the state and local governments for Virginians who are deaf or hard-of-hearing;
2. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Secretary of Health and Human Resources and the Governor and on all applications for federal funds; and
3. To advise the Governor, Secretary of Health and Human Resources, Director and the General Assembly on matters related to Virginians who are deaf or hard-of-hearing.

1984, c. 670, § 63.1-85.1:3; 2002, c. [747](#).

§ 51.5-108. Department for the Deaf and Hard-of-Hearing continued.

The Department for the Deaf and Hard-of-Hearing is continued. The Department shall be in the executive branch of the state government and shall be assigned to the Secretary of Health and Human Resources.

1984, c. 670, § 63.1-85.1:2; 1985, c. 447; 2002, c. [747](#).

§ 51.5-109. Director; appointment; compensation; qualifications.

The Governor shall appoint a Director of the Department who shall serve at the pleasure of the Governor and shall be paid such compensation as the Governor may fix.

The Director may be either a person who is deaf or hard-of-hearing or one with normal hearing, but shall be a trained professional who is experienced in problems of the deaf and hard-of-hearing and skilled in the use of manual communication, commonly referred to as sign language.

1972, c. 543, § 63.1-85.2; 1978, c. 603; 1983, c. 440; 1984, c. 670; 2002, c. [747](#).

§ 51.5-110. Powers and duties of Director.

A. The Director shall have the following duties and powers:

1. To supervise the administration of the Department;
2. To prepare, approve, and submit all requests for appropriations and be responsible for all expenditures pursuant to appropriations;
3. To employ such personnel as may be required to carry out the purposes of this chapter;
4. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of Virginia; and
5. To accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Director shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.

B. To effectuate the purposes of this chapter, the Director may request from any department, division, board, commission or other agency and the same shall provide such information, assistance and cooperation as will enable the Director properly to exercise his powers and perform his duties hereunder.

1983, c. 440, § 63.1-85.2:1; 1984, c. 670; 1985, c. 397; 2002, c. [747](#).

§ 51.5-111. Persons who are deaf or hard-of-hearing defined and categorized.

For the purposes of this chapter, persons who are deaf or hard-of-hearing include those who experience hearing losses that range from a mild hearing loss to a profound hearing loss. They are categorized as follows:

1. Persons who are deaf are those whose hearing is totally impaired or whose hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken communication is through visual input such as lip-reading, sign language, finger spelling, reading or writing.
2. Persons who are hard-of-hearing are those whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without a hearing aid.

1984, c. 670, § 63.1-85.3:1; 2002, c. [747](#).

§ 51.5-112. Powers and duties of Department.

The Department shall have the following powers and duties:

1. To develop a program to inform persons who are deaf or hard-of-hearing and the public of opportunities available for persons who are deaf or hard-of-hearing to fulfill their needs and solve certain problems through existing state and local services and to make available such other information as

would be of value to families, professionals and other citizens working or involved in the deafness field;

2. To promote a framework for consultation and cooperation among the state agencies and institutions serving persons who are deaf or hard-of-hearing;

3. To aid in the provision of technical assistance and training within the Commonwealth in order to support efforts to initiate or improve programs and services for persons who are deaf or hard-of-hearing;

4. To evaluate state programs that deliver services to persons who are deaf or hard-of-hearing to determine their effectiveness and to make recommendations to the appropriate government officials concerning the future financial support and continuation of such programs and the establishment of the new ones;

5. To monitor state programs delivering services to persons who are deaf or hard-of-hearing to determine the extent to which services promised or mandated are delivered;

6. To make appropriate recommendations for legislative changes to the Governor and General Assembly and to follow and evaluate federal legislation having a potential impact upon persons who are deaf or hard-of-hearing who live in the Commonwealth;

7. To cooperate with schools for the deaf as provided in Chapter 19 (§ [22.1-346](#) et seq.) of Title 22.1 insofar as may be practicable;

8. To operate a program of technology assistance and services to encourage independence of persons who are deaf, hard-of-hearing, or speech impaired, including the distribution of devices for the deaf and support of message relay services, through grants, contracts and other means, including a sliding fee scale where appropriate; and

9. To adopt such regulations, consistent with this chapter, as may be necessary to carry out the purpose and intent of this chapter and other laws of the Commonwealth administered by the Director or the Department. Such regulations shall be binding on all officers, agents, and employees engaged in implementing the provisions of this chapter.

1972, c. 543, § 63.1-85.4; 1977, c. 668; 1983, c. 440; 1984, cc. 670, 734; 1988, c. 93; 1996, c. [471](#); 2002, c. [747](#).

§ 51.5-113. Statewide interpreter service.

The Department is authorized to establish, maintain and coordinate a statewide service to provide courts, state and local legislative bodies and agencies, both public and private, and persons who are deaf or hard-of-hearing who request the same with qualified interpreters for persons who are deaf or hard-of-hearing out of such funds as may be appropriated to the Department for these purposes.

Those courts and state and local agencies that have funds designated to employ qualified interpreters shall pay for the actual cost of such interpreter. The Department is further authorized to establish and

maintain lists of qualified interpreters for persons who are deaf or hard-of-hearing to be available to the courts, state and local legislative bodies and agencies, both public and private, and to persons who are deaf or hard-of-hearing.

The Department is authorized to charge a reasonable fee for the administration of quality assurance screening of interpreters. Such fees shall be applied to the costs of administering the statewide interpreter service.

For purposes of this section, a qualified interpreter shall be one who holds at least one of the following credentials:

1. Certification from any national organization whose certification process has been recognized by the Department for the Deaf and Hard-of-Hearing; or
2. A current screening level awarded by the Virginia Quality Assurance Screening Program of the Department for the Deaf and Hard-of-Hearing; or
3. A screening level or recognized evaluation from any other state when (i) the credentials meet the minimum requirements of Virginia Quality Assurance Screening and (ii) the credentials are valid and current in the state issued.

1978, c. 603, § 63.1-85.4:1; 1984, c. 670; 1990, c. 192; 1992, c. 614; 2002, c. [747](#).

§ 51.5-114. Gifts and donations; disposition of moneys received.

The Department is authorized to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions as in the judgment of the Department are proper and consistent with this chapter. All moneys received as gifts or donations or state appropriations shall be deposited in the state treasury to be used by the Department to defray expenses in performing its duties. A full report of all gifts and donations accepted, together with the names of the donors and the respective amounts contributed by each, and all disbursements therefrom, shall be submitted annually to the Governor by the Department.

1972, c. 543, § 63.1-85.7; 1984, c. 670; 2002, c. [747](#).

§ 51.5-115. Telecommunications relay service; standards; funding.

A. As used in this section, unless the context requires otherwise, the term:

"Operation" means those functions reasonably and directly necessary for the provision of telecommunications relay service, including contract procurement and administration and public education and information regarding telecommunications relay service.

"Telecommunications relay service" means a facility whereby a person who has a hearing or speech disability using a text telephone and a person using a conventional telephone device can communicate with each other via telephone.

"VITA" means the Virginia Information Technologies Agency.

"Voice carry over" means technology that will enable a deaf or hard-of-hearing person with good speech to use his voice, instead of the text telephone, to communicate back to the hearing person.

B. The Department, with the assistance of VITA, shall be responsible for the provision and operation of telecommunications relay service for all text telephones within the Commonwealth. Telecommunications relay service shall include at a minimum:

1. Twenty-four-hour-a-day, seven-day-a-week statewide access with no limitations or restrictions that are not applicable to voice users of the telephone network;
2. An answer rate that ensures that at least 85% of the incoming calls are operator-answered within 20 seconds and at least 99% of incoming calls are answered within 60 seconds;
3. Technological advances, including the capability of voice carryover; and
4. Adequate facilities and personnel to ensure that calls are interpreted accurately; notwithstanding this provision, unless miscommunication on a call is caused by the willful misconduct of the telecommunications relay service provider, liability of the telecommunications relay service provider shall be limited to the charges imposed on users for the call.

C. All costs associated with the establishment and operation of the telecommunications relay service, including but not limited to personnel costs incurred by the Department for administering the service, shall be funded through a distribution made to the Department in accordance with the provisions of [§ 58.1-662](#) and any money transferred from the Department as provided for in subsection D. Such distributions, when appropriate, may be zero. The distributions shall be based on projected costs and special interim distributions may be made if actual costs exceed projections. No distribution shall be made and no funds shall be expended to support any activities that are not reasonably and directly necessary for the operation of the telecommunications relay service as defined in this section.

D. The Department shall transfer any funds received from the National Exchange Carrier Association, or other funding sources for purposes of operating telecommunications relay services, to VITA for costs associated with telecommunications relay service.

2006, c. [780](#).

Chapter 14 - DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Article 1 - GENERAL PROVISIONS

§ 51.5-116. Definitions.

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

"Case management" means a dynamic collaborative process that utilizes and builds on the strengths and resources of consumers to assist them in identifying their needs, accessing and coordinating services, and achieving their goals. The major collaborative components of case management services include advocacy, assessment, planning, facilitation, coordination, and monitoring.

"Case management system" means a central point of contact linking a wide variety of evolving services and supports that are (i) available in a timely, coordinated manner; (ii) physically and programmatically accessible; and (iii) consumer-directed with procedural safeguards to ensure responsiveness and accountability.

"Client" means any person receiving a service provided by the personnel or facilities of a public or private agency, whether referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner for Aging and Rehabilitative Services.

"Consumer" means, with respect to case management services, a person with a disability or his designee, guardian, conservator, or committee.

"Department" means the Department for Aging and Rehabilitative Services.

"Employment services organization" means an organization that provides employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department.

"Local board" means a local board of social services established pursuant to Article 1 (§ [63.2-300](#) et seq.) of Chapter 3 of Title 63.2.

"Local department" means a local department of social services established pursuant to Article 2 (§ [63.2-324](#) et seq.) of Chapter 3 of Title 63.2.

"Local director" means a local director of social services appointed pursuant to § [63.2-325](#).

"Older person" or "older Virginian" means a person who is age 60 years or older.

"Physical or sensory disability" means a disability resulting in functional impairment or impairment of the central nervous system, which may include but is not limited to brain injury, spinal cord injury, cerebral palsy, arthritis, muscular dystrophy, multiple sclerosis, Prader-Willi syndrome, and systemic lupus erythematosus (lupus).

"Prader-Willi syndrome" means a specific disorder that is usually caused by chromosomal change, resulting in lifelong functional and cognitive impairments and life-threatening obesity.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

2012, cc. [803](#), [835](#); 2014, c. [289](#); 2018, cc. [243](#), [377](#).

§ 51.5-117. Declaration of purpose; Department for Aging and Rehabilitative Services created.

A. It is hereby found and determined by the General Assembly that there exists in the Commonwealth a need to ensure effective programs and services, and to improve coordination of these programs and services, for citizens of the Commonwealth who, for reasons of age, disability, or other physical

factors, face challenges in living independently in the community and accessing the full range of programs and services to help them achieve independence and an improved quality of life.

B. To achieve the objectives described in subsection A, there is hereby created the Department for Aging and Rehabilitative Services, with such powers and duties as are set forth in this chapter. The Department shall work to ensure effective communications access, technology, vocational, support, and protective services for these citizens within the agency and across the Commonwealth.

C. The Department shall be in the executive branch of state government and shall be assigned to the Secretary of Health and Human Resources.

2012, cc. [803](#), [835](#).

§ 51.5-118. Department designated as state agency for purpose of cooperation with federal government.

The Department is designated, subject to the provisions of §§ [51.5-66](#) and [51.5-77](#) regarding the Department for the Blind and Vision Impaired, as the state agency for the purpose of cooperating with the federal government in carrying out the provisions and purposes of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) and is empowered and directed to cooperate with the federal government in the administration of such act, to prescribe and provide services as may be necessary for the rehabilitation of persons with disabilities, to provide for the supervision of such services, and to disburse and administer federal funds provided for the rehabilitation of such persons.

Code 1950, §§ 2.1-584, 22-327, 22-330.9; 1964, c. 276; 1978, c. 635; 1980, c. 559; 1985, c. 421, § 51.01-9, 51.5-9; 2012, cc. [803](#), [835](#).

§ 51.5-119. Department designated as state agency for purpose of coordinating rehabilitative services.

The Department is designated as the state agency for coordinating rehabilitative services to persons with significant physical or sensory disabilities. The Department shall provide for the comprehensive assessment of the need for rehabilitative and support services of such persons, identify gaps in services, promote interagency coordination, develop models for case management, and advise the Secretary of Health and Human Resources, the Governor, and the General Assembly on programmatic and fiscal policies and the delivery of services to such persons.

1989, c. 176, § 51.5-91; 2000, c. [151](#); 2012, cc. [803](#), [835](#); 2014, c. [289](#).

§ 51.5-120. Cooperation of Department with other state departments.

A. The Department shall collaborate with the Department of Behavioral Health and Developmental Services in activities related to licensing providers of (i) services under the Individual and Families Developmental Disabilities Support Waiver, (ii) services under the Brain Injury Waiver, and (iii) residential services for individuals with brain injuries as defined in § [37.2-403](#). These activities include involving advocacy and consumer groups who represent persons with developmental disabilities or brain injuries in the regulatory process; training the Department of Behavioral Health and Developmental Services, local human rights committees, and the State Human Rights Committee on the

unique needs and preferences of individuals with developmental disabilities or brain injuries; assisting in the development of regulatory requirements for such providers; and providing technical assistance in the regulatory process and in performing annual inspections and complaint investigations.

B. The Department shall collaborate with the Department of Social Services in activities related to the planning and provision of adult services pursuant to Article 4 (§ [51.5-144](#) et seq.), adult protective services pursuant to Article 5 (§ [51.5-148](#)), and auxiliary grants pursuant to Article 9 (§ [51.5-159](#) et seq.).

C. The Department shall enter into cooperative agreements with the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, the Virginia Community College System, public institutions of higher education, and the Department of Education to identify the responsibilities of each public entity relating to the provision of vocational rehabilitation services as required by the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), as amended.

2012, c. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-121. Authority of Department to request and receive information from other agencies; use of information so obtained.

The Department may request and shall receive from all departments, boards, bureaus, or other agencies of the Commonwealth such records and information as is necessary for the purpose of carrying out the provisions and programs of this chapter, and the same are authorized to provide such information, provided that a written statement from the requesting party stating the reason for seeking such record is submitted and filed with the record sought. The Department may also request and receive records and information necessary for the purpose of carrying out the provisions and programs of this chapter from agencies or political subdivisions of other states. The Department may make such information available to public officials and agencies of the Commonwealth, other states, political subdivisions of the Commonwealth, and political subdivisions of other states in accordance with state and federal law when the request for information relates to administration of the various public assistance or social services programs.

2012, cc. [803](#), [835](#).

§ 51.5-122. Confidential records and information concerning adult services and adult protective services; penalty.

A. The records, information, and statistical registries of the Department and local departments of social services concerning adult services and adult protective services provided to or on behalf of individuals shall be confidential information, provided that the Commissioner and his agents shall have access to such records, information, and statistical registries, and that such records, information, and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.

It shall be unlawful for the Commissioner, his agents or employees, any person who has held any such position, or any other person to whom any confidential record or information is disclosed to dis-

close, directly or indirectly, such confidential record or information, except as herein provided. Every violation of this section shall constitute a Class 1 misdemeanor.

B. If a request for a record or information concerning applicants for and recipients of adult services provided pursuant to Article 4 (§ [51.5-144](#) et seq.) or adult protective services provided pursuant to Article 5 (§ [51.5-148](#)) is made to the Department or a local department by a person who does not have a legitimate interest, the Commissioner or local director shall not provide the record or information unless permitted by state or federal law or regulation.

2012, cc. [803](#), [835](#).

§ 51.5-123. Community Rehabilitation Case Management System.

The Department shall develop and implement a community rehabilitation case management system. Such system shall provide for the coordination of medical, psychosocial, vocational, rehabilitative, long-term care, and family and community support services for persons with significant physical or sensory disabilities.

The Department shall facilitate the provision of such services by the Department and any other state, local, public, or private nonprofit agency, organization, or facility to such persons.

1989, c. 176, § 51.5-9.2; 2012, cc. [803](#), [835](#); 2014, c. [289](#).

§ 51.5-124. Eligibility for community rehabilitation case management.

A person shall be eligible to receive community rehabilitation case management services pursuant to § [51.5-123](#) if the Department determines such person is disabled indefinitely and requires a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are lifelong or for an extended duration and are individually planned and coordinated, or such person's disability results in substantive functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency. Rehabilitative case management shall not be provided to any person who is eligible for Medicaid targeted case management or other publicly funded case management or Medicaid transition coordination.

1989, c. 176, § 51.5-9.3; 2012, cc. [803](#), [835](#); 2014, c. [289](#).

§ 51.5-125. Gifts and donations.

The Department is authorized to receive such gifts and donations, either from public or private sources, as may be offered unconditionally or under such conditions as in the judgment of the Department are proper and consistent with this title. All moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent special fund. Such moneys may also be used in matching federal grants. The Department shall annually submit to the Governor a full report of all gifts and donations offered and accepted, the names of the donors, the respective amounts contributed by each donor, and all disbursements of such gifts and donations.

Code 1950, §§ 2.1-586, 22-239, 22-330.11; 1964, c. 276; 1970, c. 213; 1978, c. 635; 1980, c. 559; 1984, c. 734; 1985, c. 421, §§ 51.01-10, 51.5-10; 2012, c. [835](#); 2020, c. [728](#).

§ 51.5-126. Donation of equipment.

The Department shall retain title to items of nonexpendable equipment purchased by the Department for individuals or groups of individuals, in accordance with this title and the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), while such equipment has an undepreciated monetary value. Once the equipment reaches a depreciated value of zero, the Department may donate the equipment to the individual or group of individuals then authorized to use it by the Department. The donation shall be consistent with the public purpose of the Department. The Department, in concert with the Department of Accounts, shall establish criteria for depreciation of such equipment in accordance with generally accepted accounting principles and maintain depreciation records. The Department shall report a donation pursuant to this section to the Division of Purchases and Supply and to the Auditor of Public Accounts. Nothing in this section shall be construed to excuse the Department from complying with § [2.2-1124](#) except for equipment donated pursuant to this section.

1986, c. 436, §§ 51.01-10.1, 51.5-10.1; 2012, cc. [803](#), [835](#).

§ 51.5-127. Commonwealth Council on Aging; purpose; membership; terms.

A. The Commonwealth Council on Aging is established as an advisory council, within the meaning of § [2.2-2100](#), in the executive branch of state government. The purpose of the Commonwealth Council on Aging shall be to promote an efficient, coordinated approach by state government to meeting the needs of older Virginians.

B. The Commonwealth Council on Aging shall consist of 24 members as follows: one member from each of the 11 congressional districts of the Commonwealth appointed by the Governor subject to confirmation by the General Assembly; four at-large nonlegislative citizen members appointed by the Speaker of the House of Delegates; four at-large nonlegislative citizen members appointed by the Senate Committee on Rules; and the Commissioner for Aging and Rehabilitative Services, the Director of the Department of Medical Assistance Services, the Commissioner of Social Services, the Secretary of Health and Human Resources, and the President of the Virginia Association of Area Agencies on Aging, or their designees, who shall serve as nonvoting ex officio members. Members of the Commonwealth Council on Aging shall be citizens of the Commonwealth appointed at large without regard to political affiliation but with due consideration of geographical representation. Appointees shall be selected for their ability, and all appointments shall be of such nature as to aid the work of the Commonwealth Council on Aging and to inspire the highest degree of cooperation and confidence.

C. After the initial staggering of terms, all appointments shall be for four-year terms.

Appointments to fill vacancies shall be for the unexpired term. No person having served on the Commonwealth Council on Aging for two full consecutive terms shall be eligible for reappointment to the Commonwealth Council on Aging for two years thereafter. The remainder of any term to which a mem-

ber is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility to serve.

D. The Commonwealth Council on Aging shall elect a chairman and a vice-chairman from among its members and shall appoint a secretary and such other officers as it deems necessary and prescribe their duties and terms of office. The Commonwealth Council on Aging may adopt bylaws to govern its operations.

E. Members shall receive compensation for the performance of their duties as provided in § [2.2-2813](#). All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#). Funding for the costs of compensation and expenses of the members shall be provided by the Department.

F. The Department shall provide staff support to the Commonwealth Council on Aging.

1998, c. [665](#), § 2.1-373.02; 2000, cc. [877](#), [896](#); 2001, c. [844](#), § 2.2-2626; 2004, c. [1000](#); 2010, cc. [411](#), [801](#); 2012, cc. [803](#), [835](#).

§ 51.5-128. Duties of the Commonwealth Council on Aging.

A. The Commonwealth Council on Aging shall have the following duties:

1. Examine the needs of older Virginians and their caregivers and ways in which state government can most effectively and efficiently assist in meeting those needs;
2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;
3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and Budget to have a substantial and distinct impact on older Virginians and their caregivers. Such advice shall be provided in addition to other regulatory reviews required by the Administrative Process Act (§ [2.2-4000](#) et seq.);
4. Advocate for and assist in developing the Commonwealth's planning for meeting the needs of the growing number of older Virginians and their caregivers; and
5. Assist and advise the Department regarding strategies to improve nutritional health, alleviate hunger, and prevent malnutrition among older adults.

B. The Commonwealth Council on Aging may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith.

1998, c. [665](#), § 2.1-373.02; 2000, cc. [877](#), [896](#); 2001, c. [844](#), § 2.2-2627; 2010, cc. [411](#), [801](#); 2012, cc. [803](#), [835](#); 2017, c. [202](#); 2020, c. [728](#).

§ 51.5-129. Creation of State Rehabilitation Council; purpose; membership.

The State Rehabilitation Council is established as a designated state council in the executive branch of government for the purpose of providing advice to and performing other functions for the

Department regarding vocational services provided pursuant to Title I and Title VI of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq. and 29 U.S.C. § 795 et seq., respectively). Membership, terms, and meeting requirements shall be in accordance with federal provisions as provided in 29 U.S.C. § 725.

2012, cc. [803](#), [835](#).

Article 2 - COMMISSIONER FOR AGING AND REHABILITATIVE SERVICES

§ 51.5-130. Commissioner for Aging and Rehabilitative Services.

A. The supervision of the Department shall be the responsibility of the Commissioner for Aging and Rehabilitative Services under the direction and control of the Governor and the Secretary of Health and Human Resources. The Commissioner shall be a person of proven executive and administrative knowledge, skills, and abilities, with appropriate education and substantial experience in the field of aging and rehabilitative services. He shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor for a term coincident with that of the Governor.

B. In cooperation with the Commonwealth Council on Aging, the Commissioner shall serve as the Governor's principal advisor on aging issues and shall recommend to the Governor and the General Assembly such policies, legislation, and other actions appropriate to meet the needs of an aging society and to improve aging services in the Commonwealth. In addition, the Commissioner shall serve as Special Assistant to the Governor for Aging Policy and shall report directly to the Governor as necessary on aging policies.

Code 1950, §§ 2.1-579, 22-330.4:2; 1978, c. 635; 1980, c. 559; 1982, c. 12; 1984, c. 720; 1985, c. 421, §§ 51.01-13, 51.5-13; 2012, cc. [803](#), [835](#).

§ 51.5-131. Powers and duties of Commissioner.

The Commissioner shall have the following powers and duties:

1. To employ such personnel, qualified by knowledge, skills, and abilities, as may be required to carry out the purposes of this chapter relating to the Department;
2. To make and enter into all contracts and agreements necessary for or incidental to the performance of the Department's duties and the execution of its powers under this title, including but not limited to contracts with the United States, other states, agencies, and governmental subdivisions of the Commonwealth;
3. To accept grants from the United States government and agencies and instrumentalities thereof and any other source and, to these ends, to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable;
4. To perform all acts necessary or convenient to carry out the purposes of this chapter;
5. To develop and analyze information on the needs of older Virginians and persons with disabilities;

6. To establish plans, policies, and programs for the delivery of services to older Virginians and persons with disabilities for consideration by the Governor and the General Assembly. Such policies, plans, and programs for services for those who cannot benefit from vocational rehabilitation shall be prepared over time and as funds become available for such efforts;
7. To operate and maintain the Wilson Workforce and Rehabilitation Center and to organize, supervise, and provide other necessary services and facilities (i) to prepare persons with disabilities for useful and productive lives, including suitable employment, and (ii) to enable persons with disabilities, to the degree possible, to become self-sufficient and have a sense of well-being;
8. To develop criteria for the evaluation of plans and programs relative to the provision of aging services for older Virginians and persons with disabilities as required by the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended;
9. To investigate the availability of funds from any source for planning, developing, and providing services to older Virginians and persons with disabilities, particularly those not capable of being gainfully employed;
10. To coordinate the Department's plans, policies, programs, and services, and such programs and services required under § [51.5-123](#), with those of the other state agencies providing services to persons with disabilities so as to achieve maximum utilization of available resources to meet the needs of such persons;
11. To compile and provide information on the availability of federal, state, regional, and local funds and services for older Virginians and persons with disabilities;
12. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor;
13. To promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department;
14. To work with the Department of Veterans Services and the Department of Behavioral Health and Developmental Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § [2.2-2001.1](#);
15. To promote the use of technologies to realize communication access and increase livability across the Commonwealth; and
16. To perform such other duties as may be required by the Governor and the Secretary of Health and Human Resources.

Code 1950, §§ 2.1-580, 22-330.4:3; 1978, c. 635; 1980, c. 559; 1982, c. 12; 1985, c. 421, §§ 51.01-14, 51.5-14; 1989, c. 176; 1992, c. 755; 2008, cc. [584](#), [754](#); 2009, cc. [813](#), [840](#); 2012, cc. [803](#), [835](#); 2015, c. [542](#); 2020, c. [728](#).

§ 51.5-132. Commissioner to establish regulations regarding human research.

The Commissioner shall promulgate regulations pursuant to the Administrative Process Act (§ [2.2-4000](#) et seq.) to effectuate the provisions of Chapter 5.1 (§ [32.1-162.16](#) et seq.) of Title 32.1 for human research, as defined in § [32.1-162.16](#), to be conducted or authorized by the Department, any area agency on aging, any sheltered workshop, any independent living center, or the Wilson Workforce and Rehabilitation Center. The regulations shall require the human research review committee, as provided in § [32.1-162.19](#), to submit to the Governor, the General Assembly, and the Commissioner or his designee, at least annually, a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.

2003, cc. [57](#), [73](#), § 51.5-14.01; 2012, cc. [803](#), [835](#); 2015, c. [542](#); 2020, c. [728](#).

§ 51.5-133. Cooperation with local authorities.

The Commissioner shall assist and cooperate with local authorities in the administration of this chapter. He shall encourage and direct the training of all personnel of local boards and local departments engaged in the administration of any adult services or adult protective services program within the purview of this chapter. The Commissioner shall collect and publish statistics and such other data as may be deemed of value in assisting public authorities and agencies of the Commonwealth in improving the care of older Virginians and persons with disabilities. The Commissioner shall also, in his discretion, initiate and conduct conferences designed to accomplish such ends and to further coordination of effort in this field.

2012, cc. [803](#), [835](#).

Article 3 - Services for Older Virginians

§ 51.5-134. Definitions.

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

"Access services" means care coordination; care transitions; communication, referral, information, and assistance; options counseling; transportation; and assisted transportation.

"Aging services" means access services, Care Coordination for Elderly Virginians, caregiver services, client services, disease prevention and health promotion services, in-home services, legal assistance, nutrition services, and elder abuse prevention services that are supported with federal and state funds.

"Caregiver services" means counseling services, including individual counseling, support groups, and caregiver training; respite services, including institutional respite and direct respite services; and supplemental services.

"Client services" means emergency services, employment services pursuant to Title III of the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, health education and screening, long-term care coordinating activities, medication management, money management, public information and education, socialization and recreation, and volunteer programs.

"In-home services" means adult day care, checking, chore, homemaker, personal care, and residential repair and renovation services.

"Long-term care" means any service, care, or item, including a disease prevention and health promotion service, an in-home service, and a case management service that is (i) intended to assist individuals in coping with, and to the extent practicable in compensating for, a functional impairment in carrying out activities of daily living; (ii) furnished at home, in a community care setting, or in a long-term care facility; and (iii) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

"Long-term care ombudsman program" means the program established in Article 13 (§ [51.5-182](#) et seq.).

"Nutrition services" means congregate and home-delivered nutrition services.

2012, cc. [476](#), [507](#), [803](#), [835](#); 2020, c. [728](#).

§ 51.5-135. Powers and duties of Department with respect to aging persons; area agencies on aging.

A. The Department shall provide aging services to improve the quality of life for older persons in the Commonwealth and shall act as a focal point among state agencies for research, policy analysis, long-range planning, and education on aging issues. The Department shall also serve as the lead agency in coordinating the work of state agencies on meeting the needs of an aging society. The Department's policies and programs shall be designed to enable older persons to be as independent and self-sufficient as possible. The Department shall promote local participation in programs for older persons, evaluate and monitor aging services, and provide information to the general public. In furtherance of this mission, the Department shall have, without limitation, the following duties to:

1. Study the economic and physical condition of the residents in the Commonwealth whose age qualifies them for coverage under the Older Americans Act, 42 U.S.C. § 3001 et seq., or any law amendatory or supplemental thereto, and the employment, medical, educational, recreational, and housing facilities available to them, with the view of determining the needs and problems of such persons;
2. Determine the services and facilities, private and governmental and state and local, provided for and available to older persons and recommend to the appropriate persons such coordination of and changes in such services and facilities as will make them of greater benefit to older persons and more responsive to their needs;
3. Act as the designated state unit on aging for the purposes of carrying out the requirements under P.L. 89-73 or any law amendatory or supplemental thereto, and as the sole agency for administering or supervising the administration of such plans as may be adopted in accordance with the provisions of such laws. The Department may prepare, submit, and carry out state plans and shall be the agency primarily responsible for coordinating state programs and activities related to the purposes of, or undertaken under, such plans or laws;

4. Apply, with the approval of the Governor, for and expend such grants, gifts, or bequests from any source that becomes available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith;
5. Hold hearings and conduct investigations necessary to pass upon applications for approval of a project under the plans and laws set out in subdivision 3, and shall make reports to the U.S. Secretary of Health and Human Services as may be required;
6. Designate area agencies on aging pursuant to P.L. 89-73 or any law amendatory or supplemental thereto of the Congress of the United States and to adopt regulations for the composition and operation of such area agencies on aging, each of which shall be designated as the lead agency in each respective area for the No Wrong Door system of aging and disability resource centers;
7. Provide staff support to the Commonwealth Council on Aging;
8. Assist state, local, and nonprofit agencies, including, but not limited to, area agencies on aging, in identifying grant and public-private partnership opportunities for improving services to older Virginians;
9. Provide or contract for the administration of the state long-term care ombudsman program. Such program or contract shall provide a minimum staffing ratio of one ombudsman to every 2,000 long-term care beds, subject to sufficient appropriations by the General Assembly. The Department may also contract with such entities for the administration of elder rights programs as authorized under P.L. 89-73, such as insurance counseling and assistance, and the creation of an elder information/elder rights center;
10. Serve as the focal point for the rights of older persons and their families by establishing, maintaining, and publicizing (i) a toll-free number and (ii) a means of electronic access to provide resource and referral information and other assistance and advice as may be requested; and
11. Develop and maintain a four-year plan for aging services in the Commonwealth, pursuant to § [51.5-136](#).

B. The governing body of any county, city, or town may appropriate funds for support of area agencies on aging designated pursuant to subdivision A 6.

C. All agencies of the Commonwealth shall assist the Department in effectuating its functions in accordance with its designation as the single state agency as required in subdivision A 3.

1974, c. 420, § 2.1-373; 1976, c. 299; 1978, c. 271; 1979, c. 678; 1982, c. 345; 1983, cc. 165, 215; 1997, c. [320](#); 1998, c. [665](#); 1999, cc. [712](#), [1021](#); 2000, cc. [307](#), [313](#); 2001, c. [844](#), § 2.2-703; 2004, c. [694](#); 2005, cc. [610](#), [924](#); 2008, c. [361](#); 2009, cc. [339](#), [719](#); 2010, cc. [411](#), [801](#); 2012, cc. [803](#), [835](#); 2020, c. [728](#).

§ 51.5-136. Strategic long-range planning for aging services; four-year plan; report.

A. The Department shall develop and maintain a four-year plan for aging services in the Commonwealth. Such plan shall serve to inform the State Plan for Aging Services as required by the U.S. Administration on Aging. In developing the plan, the Department shall consult (i) various state and local services agencies, (ii) businesses, (iii) nonprofit organizations, (iv) advocacy organizations, (v) baccalaureate institutions of higher education, (vi) providers, (vii) organizations involved in providing services for and advocating for older Virginians and their caregivers, and (viii) stakeholders, including but not limited to the Virginia Association of Area Agencies on Aging; the state's health and human resources agencies, boards, councils, and commissions; the Departments of Transportation, Rail and Public Transportation, Housing and Community Development, and Corrections; and the Virginia Housing Development Authority.

In addition, the plan shall inform and serve as a resource to a long-term blueprint for state and community planning for aging populations that shall be comprehensive and not limited to traditional health and human services issues, but rather consists of broad-based issues of active daily life in communities throughout the Commonwealth.

B. The four-year plan shall include:

1. A description of Virginia's aging population and its impact on the Commonwealth, and issues related to ensuring and providing services to this population at both the state and local levels;
2. Factors for the Department to consider in determining when additional funding may be required for aging services;
3. Information on changes in the aging population, with particular attention to the growing diversity of the population including low-income, minority, and non-English speaking older Virginians;
4. Information on unmet needs and waiting list data for aging services as reported by the Virginia Association of Area Agencies on Aging and those state agencies that may maintain and provide this information;
5. Results from periodic needs surveys and customer satisfaction surveys targeted to older Virginians that may be conducted by the Department, the Virginia Association of Area Agencies on Aging, or any other state or local agency from time to time;
6. An analysis by every state agency of how the aging of the population impacts the agency and its services and how the agency is responding to this impact. Such analysis shall be provided to the Department every four years on a schedule and in a format determined by the Secretary of Health and Human Resources in coordination with the Department;
7. The impact of changes in federal and state funding for aging services;
8. The current status and future development of Virginia's No Wrong Door Initiative; and
9. Any other factors the Department deems appropriate.

C. In carrying out the duties provided by this section, the Commissioner shall submit the plan to the Governor and the General Assembly by October 1, 2015. Thereafter, the plan shall be submitted every four years.

2008, c. [361](#), § 2.2-703.1; 2010, cc. [411](#), [801](#); 2012, cc. [509](#), [803](#), [835](#); 2020, c. [728](#).

§ 51.5-137. Administrative responsibilities of Department regarding aging services.

The Department shall have the following responsibilities regarding aging services in the Commonwealth:

1. Develop appropriate fiscal and administrative controls over aging services in the Commonwealth;
2. Develop a state long-term care plan to guide the coordination and delivery of aging services. The plan shall ensure the development of a continuum of aging services for older persons in need of services;
3. Identify and assure the equitable statewide distribution of resources for aging services; and
4. Perform ongoing evaluations of the cost-effective utilization of aging services.

2012, cc. [803](#), [835](#); 2020, c. [728](#).

§ 51.5-138. Coordination of local aging services and long-term care by localities.

The governing body of each county or city, or a combination thereof, may designate a lead agency and member agencies to accomplish the coordination of local aging services and long-term care. If established, the agencies may establish a long-term care coordination committee composed of, but not limited to, representatives of each agency. The coordination committee may guide the coordination and administration of aging services and long-term care in the locality. The membership of the coordination committee may include, but is not limited to, representatives of the local department of public health, the local department of social services, the community services board or community mental health clinic, the area agency on aging, the local nursing home pre-admission screening team, and representatives of housing, transportation, and other appropriate local organizations that provide long-term care. A plan may be implemented that ensures the cost-effective utilization of all funds available for aging services and long-term care in the locality. Localities are encouraged to provide services and supports within each category of service in the continuum and to allow one person to deliver multiple aging services, when possible.

1982, c. 346, § 2.1-373.7; 2001, c. [844](#), § 2.2-708; 2008, cc. [391](#), [419](#); 2010, cc. [411](#), [801](#); 2012, cc. [803](#), [835](#); 2020, c. [728](#).

§§ 51.5-139 through 51.5-142. Repealed.

Repealed by Acts 2020, c. [728](#), cl. 2.

§ 51.5-143. Powers and duties of Department relating to universal design and visitability features.

The Department shall publicize guidelines on universal design and visitability features to make structures and dwellings accessible for older Virginians and people who develop mobility impairment. Such guidelines shall be disseminated to the public and posted on the Department's website.

2012, cc. [803](#), [835](#).

Article 4 - ADULT SERVICES

§ 51.5-144. Definitions.

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

"Adult" means an individual who is 18 years of age or older, or under the age of 18 years if legally emancipated.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult services" means services that are provided by local departments of social services to an adult with an impairment.

"Adult with an impairment" means an adult whose physical or mental capacity is diminished to the extent that he needs counseling or supervisory assistance or assistance with activities of daily living or instrumental activities of daily living.

2012, cc. [803](#), [835](#).

§ 51.5-145. Responsibility of the Department for adult services.

The Department shall have responsibility for the planning and oversight of adult services in the Commonwealth. Services shall be delivered by local departments of social services, as set out in Article 1 (§ [63.2-1600](#) et seq.) of Chapter 16 of Title 63.2, and pursuant to regulations and subject to the oversight of the Commissioner.

2012, cc. [803](#), [835](#).

§ 51.5-146. Adult services.

Adult services provided by the Department together with local departments of social services shall include:

1. Home-based services, including homemaker, companion, or chore services, which will allow individuals to attain or maintain self-care and are likely to prevent or reduce dependency, to the extent that federal or state matching funds are made available for such purpose;
2. Adult foster care, including recruitment, approval, and supervision of adult foster care homes;
3. Participation in nursing home pre-admission screenings of all individuals pursuant to § [32.1-330](#);
4. Provision of assisted living facility assessments of residents and applicants pursuant to § [63.2-1804](#);

5. Participation in long-term care service coordination pursuant to § [51.5-138](#);
 6. Provision of social services or public assistance as defined in § [63.2-100](#), as appropriate, to consumers discharged from state hospitals or training centers pursuant to §§ [37.2-505](#) and [37.2-837](#); and
 7. Participation in such other services or programs as may be required pursuant to state or federal law.
- 2012, cc. [803](#), [835](#).

§ 51.5-147. Appeal to Commissioner regarding home-based and adult foster care services.

Any applicant for or recipient of home-based and adult foster care services aggrieved by any decision of a local board in granting, denying, changing, or discontinuing services may, within 30 days after receiving written notice of such decision, appeal therefrom to the Commissioner. Any applicant or recipient aggrieved by the failure of the local board to make a decision within a reasonable time may ask for review by the Commissioner. The Commissioner may delegate the duty and authority to duly qualified hearing officers to consider and make determinations on any appeal or review. The Commissioner shall provide an opportunity for a hearing, reasonable notice of which shall be given in writing to the applicant or recipient and to the proper local board in such manner and form as the Commissioner may prescribe. The Commissioner may make or cause to be made an investigation of the facts. The Commissioner shall give fair and impartial consideration to the testimony of witnesses, or other evidence produced at the hearing, reports of investigation of the local board and local director or of investigations made or caused to be made by the Commissioner, or any facts which the Commissioner may deem proper to enable him to decide fairly the appeal or review. The decision of the Commissioner shall be binding and considered a final agency action for purposes of judicial review of such action pursuant to the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.).

2012, cc. [803](#), [835](#).

Article 5 - ADULT PROTECTIVE SERVICES

§ 51.5-148. Establishment of Adult Protective Services Unit; powers and duties.

A. The Department shall have responsibility for the planning and oversight of adult protective services in the Commonwealth. The Commissioner shall establish within the Department for Aging and Rehabilitative Services an Adult Protective Services Unit which shall oversee the planning, administration, and implementation of adult protective services in the Commonwealth. Adult protective services shall be provided to the public by local departments of social services pursuant to Chapter 16 (§ [63.2-1600](#) et seq.) of Title 63.2 in cooperation with the Department and subject to the regulations and oversight of the Commissioner.

B. The Adult Protective Services Unit shall have the following powers and duties:

1. To work together with local departments of social services to support, strengthen, and evaluate adult protective services programs provided by such local departments;
2. To assist local departments of social services in developing and implementing programs to respond to and prevent adult abuse, neglect, or exploitation;

3. To prepare, disseminate, and present educational programs and materials on adult abuse, neglect, and exploitation to mandated reporters and the public;
4. To establish minimum standards of training and provide educational opportunities to qualify workers in the field of adult protective services to determine whether reports of adult abuse, neglect, or exploitation are substantiated. The Department shall establish and provide a uniform training program for adult protective services workers in the Commonwealth. All adult protective services workers shall complete such training within one year from the date of implementation of the training program or within the first year of their employment;
5. To develop policies and procedures to guide the work of persons in the field of adult protective services;
6. To prepare and disseminate statistical information on adult protective services in Virginia;
7. To operate an adult protective services 24-hour toll-free hotline and provide training and technical assistance to the hotline staff;
8. To provide coordination among the adult protective services program and other state agencies; and
9. To work collaboratively with other agencies in the Commonwealth to facilitate the reporting and investigation of suspected adult abuse, neglect, or exploitation.

2012, cc. [803](#), [835](#); 2014, c. [285](#).

Article 6 - VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR PROGRAM

§ 51.5-149. Policy statement; Virginia Public Guardian and Conservator Program established; definitions.

A. The General Assembly declares that it is the policy of the Commonwealth to ensure that persons who cannot adequately care for themselves because of incapacity (in this article, also referred to as clients) are able to meet essential requirements for physical and emotional health and management of financial resources with the assistance of a guardian or conservator, as appropriate, in circumstances where (i) the incapacitated person's financial resources are insufficient to fully compensate a private guardian or conservator and pay court costs and fees associated with the appointment proceeding and (ii) there is no other proper and suitable person willing and able to serve in such capacity or there is no guardian or conservator appointed within one month of adjudication pursuant to § [64.2-2015](#). In order to ensure that the protection and assistance of a guardian or conservator are available to all incapacitated persons in the Commonwealth, there is established the statewide Virginia Public Guardian and Conservator Program (the Program) within the Department to (a) facilitate the creation of local or regional programs to provide services as public guardians or conservators and (b) fund, coordinate, administer, and manage such programs.

B. The definitions found in § [64.2-2000](#) shall apply to this article.

1998, c. [787](#), §§ 2.1-373.10, 2.1-373.11; 2001, c. [844](#), § 2.2-711; 2005, c. [712](#); 2012, cc. [803](#), [835](#).

§ 51.5-149.1. Public Guardian and Conservator Advisory Board; purpose; membership; terms.

A. The Public Guardian and Conservator Advisory Board (the Board) is established as an advisory board, within the meaning of § [2.2-2100](#), in the executive branch of state government. The purpose of the Board shall be to report to and advise the Commissioner on the means for effectuating the purposes of this article and shall assist in the coordination and management of the local and regional programs appointed to act as public guardians and conservators pursuant to Chapter 20 (§ [64.2-2000](#) et seq.) of Title 64.2.

B. The Board shall consist of no more than 15 members who shall be appointed by the Governor as follows: one representative of the Virginia Association of Area Agencies on Aging; one representative of the Virginia State Bar; one active or retired circuit court judge upon recommendation of the Chief Justice of the Supreme Court; one representative of ARC of Virginia; one representative of the National Alliance on Mental Illness of Virginia; one representative of the Virginia League of Social Service Executives; one representative of the Virginia Association of Community Services Boards; the Commissioner of Social Services or his designee; the Commissioner of Behavioral Health and Developmental Services or his designee; and one person who is a member of the Commonwealth Council on Aging and such other individuals who may be qualified to assist in the duties of the Board, who may include a representative of the Commonwealth's designated protection and advocacy system.

C. The Commissioners of Social Services and Behavioral Health and Developmental Services, or their designees, and the representative of the Commonwealth Council on Aging shall serve terms coincident with their terms of office or, in the case of designees, the term of the Commissioner. Of the other members of the Board, five of the appointees shall serve for four-year terms and the remainder shall serve for three-year terms. No member shall serve more than two successive terms. A vacancy occurring other than by expiration of term shall be filled for the unexpired term.

D. Each year, the Board shall elect a chairman and a vice-chairman from among its members. Five members of the Board shall constitute a quorum.

E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § [2.2-2823](#).

2016, c. [40](#).

§ 51.5-149.2. Powers and duties of the Board.

The Board shall have the power and duty to:

1. Assist in the coordination and management of the local and regional programs appointed to act as public guardians and conservators pursuant to Chapter 20 (§ [64.2-2000](#) et seq.) of Title 64.2;
2. Provide advice and counsel on the provision of high-quality guardianship service and avoidance of conflicts of interest;
3. Promote the mobilization of activities and resources of public and private sector entities to effectuate the purposes of this article;

4. Make recommendations regarding appropriate legislative and executive actions, including, but not limited to, recommendations governing alternatives for local programs to follow upon repeal of the authority granted to the courts pursuant to § [64.2-2015](#) to appoint the sheriff as guardian or conservator when the maximum staff-to-client ratio of the local program is met or exceeded; and
5. Submit to the Department by October of each odd-numbered year a report regarding the activities and recommendations of the Board, to be posted on the Department's website.

2016, c. [40](#).

§ 51.5-150. Powers and duties of the Department with respect to public guardian and conservator program.

A. The Department shall fund from appropriations received for such purpose a statewide system of local or regional public guardian and conservator programs.

B. The Department shall:

1. Make and enter into all contracts necessary or incidental to the performance of its duties and in furtherance of the purposes as specified in this article in conformance with the Public Procurement Act (§ [2.2-4300](#) et seq.);
2. Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia public guardian and conservator programs in those cases in which a court, pursuant to §§ [64.2-2010](#) and [64.2-2015](#), determines that a person is eligible to have a public guardian or conservator appointed;
3. Adopt reasonable regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) as appropriate to implement, administer, and manage the state and local or regional programs authorized by this article, including, but not limited to, the adoption of:
 - a. Minimum training and experience requirements for volunteers and professional staff of the local and regional programs;
 - b. An ideal range of staff to client ratios for the programs, and adoption of procedures to be followed whenever a local or regional program falls below or exceeds the ideal range of staff to client ratios, which shall include, but not be limited to, procedures to ensure that services shall continue to be available to those in need and that appropriate notice is given to the courts, sheriffs, where appropriate, and the Department;
 - c. Procedures governing disqualification of any program falling below or exceeding the ideal range of staff to client ratios, which shall include a process for evaluating any program that has exceeded the ratio to assess the effects falling below or exceeding the ideal range of ratios has, had, or is having upon the program and upon the incapacitated persons served by the program.

The regulations shall require that evaluations occur no less frequently than every six months and shall continue until the staff to client ratio returns to within the ideal range; and

d. Person-centered practice procedures that shall:

- (1) Focus on the preferences and needs of the individual receiving public guardianship services; and
 - (2) Empower and support the individual receiving public guardianship services, to the extent feasible, in defining the direction for his life and promoting self-determination and community involvement.
4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia public guardian and conservator programs from any other guardian or conservator program operated by the entity with whom the Department contracts, specifically addressing the need for separation in programs that may be fee-generating;
 5. Establish recordkeeping and accounting procedures to ensure that each local or regional program (i) maintains confidential, accurate, and up-to-date records of the personal and property matters over which it has control for each incapacitated person for whom it is appointed guardian or conservator and (ii) files with the Department an account of all public and private funds received;
 6. Establish criteria for the conduct of and filing with the Department and as otherwise required by law: values history surveys, annual decisional accounting and assessment reports, the care plan designed for the incapacitated person, and such other information as the Department may by regulation require;
 7. Establish criteria to be used by the local and regional programs in setting priorities with regard to services to be provided;
 8. Take such other actions as are necessary to ensure coordinated services and a reasonable review of all local and regional programs;
 9. Maintain statistical data on the operation of the programs and report such data to the General Assembly on or before January 1 of each even-numbered year as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents regarding the status of the Virginia Public Guardian and Conservator Program and the identified operational needs of the program. Such report shall be posted on the Department's website. In addition, the Department shall enter into a contract with an appropriate research entity with expertise in gerontology, disabilities, and public administration to conduct an evaluation of local public guardian and conservator programs from funds specifically appropriated and allocated for this purpose, and the evaluator shall provide a report with recommendations to the Department and to the Public Guardian and Conservator Advisory Board established pursuant to § [51.5-149.1](#). Trends identified in the report, including the need for public guardians, conservators, and other types of surrogate decision-making services, shall be presented to the General Assembly. The Department shall request such a report from an appropriate research entity every four years, provided the General Assembly appropriates funds for that purpose; and
 10. Recommend appropriate legislative or executive actions.
- C. Nothing in this article shall prohibit the Department from contracting pursuant to subdivision B 2 with an entity that may also provide privately funded surrogate decision-making services, including guardian and conservator services funded with fees generated by the estates of incapacitated

persons, provided such private programs are administered by the contracting entity entirely separately from the local or regional Virginia public guardian and conservator programs, in conformity with regulations established by the Department in that respect.

D. In accordance with the Public Procurement Act (§ [2.2-4300](#) et seq.) and recommendations of the Public Guardian and Conservator Advisory Board, the Department may contract with a not-for-profit private entity that does not provide services to incapacitated persons as guardian or conservator to administer the program, and, if it does, the term "Department" when used in this article shall refer to the contract administrator.

1998, c. [787](#), § 2.1-373.12; 2000, c. [463](#); 2001, c. [844](#), § 2.2-712; 2005, c. [712](#); 2010, cc. [411](#), [801](#); 2012, cc. [322](#), [803](#), [835](#); 2016, c. [40](#); 2020, c. [728](#).

§ 51.5-151. Minimum requirements for local programs; authority.

Every local or regional program with which the Department contracts to provide services as a public guardian or conservator shall (i) furnish bond with corporate surety in an amount deemed sufficient by the Department to afford adequate financial protection to the maximum number of incapacitated persons to be served by the program; (ii) have in place a multidisciplinary panel to (a) screen cases for the purpose of ensuring that appointment of a guardian or conservator is appropriate under the circumstances and is the least restrictive alternative available to assist the incapacitated person and (b) continually review cases being handled by the program as required by the Department; (iii) accept only appointments as guardian or conservator that generate no fee or would generate a minimal fee as defined by regulation payable from a public source of funds and not from the estate of the incapacitated person; (iv) have a direct service staff to client ratio that is consistent with that specified by regulation of the Department; and (v) develop a plan, in consultation with the local circuit court and sheriffs, where appropriate, to provide advance notice to the court when the program falls below or exceeds the ideal range of staff to client ratios in order to assure continuity of services. Volunteers shall not be counted for purposes of ascertaining compliance with the staff to client ratio specified by the Department.

A local or regional program that exceeds the specified staff to client ratio shall not be disqualified from serving as a guardian or conservator except as provided by regulation or if the court or the Department finds that there is an immediate threat to the person or property of any incapacitated person or that exceeding the specified ratio is having or will have a material and adverse effect on the ability of the program to properly serve all of the incapacitated persons it has been designated to serve.

A local or regional program appointed as a guardian or conservator shall have all the powers and duties specified in Article 2 (§ [64.2-2019](#) et seq.) of Chapter 20 of Title 64.2, except as otherwise specifically limited by the court. In addition, a public guardian or conservator shall have a continuing duty to seek a proper and suitable person who is willing and able to serve as guardian or conservator for the incapacitated person. A public guardian or conservator shall have authority to make arrangements for the funeral and disposition of remains, including cremation, interment, entombment,

memorialization, inurnment, or scattering of the cremains, or some combination thereof, if the public guardian or conservator is not aware of any person that has been otherwise designated to make such arrangements as set forth in § [54.1-2825](#). A public guardian or conservator shall have authority to make arrangements for the funeral and disposition of remains after the death of an incapacitated person if, after the public guardian or conservator has made a good faith effort to locate the next of kin of the incapacitated person to determine if the next of kin wishes to make such arrangements, the next of kin does not wish to make the arrangements or the next of kin cannot be located. Good faith effort shall include contacting the next of kin identified in the petition for appointment of a guardian or conservator. The funeral service licensee, funeral service establishment, registered crematory, cemetery, cemetery operator, public guardian or conservator shall be immune from civil liability for any act, decision, or omission resulting from acceptance of any dead body for burial, cremation, or other disposition when the provisions of this section are met, unless such acts, decisions, or omissions resulted from bad faith or malicious intent.

A public guardian shall not have authority to approve or authorize a sterilization procedure except when specific authority has been given pursuant to a proceeding in the circuit court. A public guardian may authorize admission of an incapacitated person to a mental health facility as provided in subsection B of § [37.2-805.1](#) and may authorize mental health treatment, including the administration of psychotropic medication, unless the appointing court specifically provides otherwise.

A local or regional program appointed as a guardian or conservator may delegate the powers, duties, and responsibilities to individual volunteers or professional staff as authorized in the contract with the Department.

In addition to funds received from the Department, a local or regional program may accept private funds solely for the purposes of providing public education, supplemental services for incapacitated persons, and support services for private guardians and conservators, consistent with the purposes of this article.

1998, c. [787](#), § 2.1-373.14; 2001, c. [844](#), § 2.2-713; 2006, c. [854](#); 2010, c. [792](#); 2012, cc. [463](#), [803](#), [835](#).

Article 7 - Alzheimer's Disease and Related Disorders

§ 51.5-152. Powers and duties of the Department with respect to Alzheimer's disease and related disorders.

The Department shall:

1. Serve as a referral point for linking families caring for persons with Alzheimer's disease and related disorders with Virginia's chapters of the Alzheimer's Disease and Related Disorders Association;
2. Provide information, counseling, education, and referral about services and programs, including safe, secure environments as defined in § [63.2-1802](#), that may support individuals and families dealing with Alzheimer's disease and related disorders;

3. Collect and monitor data related to the impact of Alzheimer's disease and related disorders on Virginians;
4. Evaluate the needs of individuals with Alzheimer's disease and related disorders and their caregivers, and identify the services, resources, and policies that may be needed to address such needs for individuals with Alzheimer's disease and related disorders and their caregivers;
5. Recommend strategies for coordination of services and resources among agencies involved in the delivery of services to Virginians with Alzheimer's disease and related disorders;
6. Monitor development and implementation of the state plan for meeting the needs of individuals with Alzheimer's disease and related disorders and their caregivers required pursuant to subdivision D 4 of § [51.5-154](#); and
7. Recommend policies, legislation, and funding necessary to implement the state plan for meeting the needs of individuals with Alzheimer's disease and related disorders and their caregivers required pursuant to subdivision D 4 of § [51.5-154](#).

2003, cc. [749](#), [766](#), § 2.2-718; 2012, cc. [803](#), [835](#); 2013, c. [376](#); 2020, c. [728](#).

§ 51.5-153. Alzheimer's and Related Diseases Research Award Fund.

There is established a fund to be known as the Alzheimer's and Related Diseases Research Award Fund, hereafter referred to as "the Fund." The Fund shall be administered by the Virginia Center on Aging and the awards shall be made through an awards committee consisting of representatives from the scientific and medical communities and the general public. The awards shall be given annually to scientists in Virginia in order to support research into the causes of Alzheimer's disease and related disorders, methods of treatment, ways that families can cope with the stresses of the disease, and the impact of the disease on the citizens of the Commonwealth.

2003, cc. [749](#), [766](#), § 2.2-719; 2012, cc. [803](#), [835](#).

§ 51.5-154. (Expires July 1, 2023) Alzheimer's Disease and Related Disorders Commission; report.

A. The Alzheimer's Disease and Related Disorders Commission (the Commission) is established as an advisory commission in the executive branch of state government. The purpose of the entity is to assist people with Alzheimer's disease and related disorders and their caregivers.

B. The Commission shall consist of 15 nonlegislative citizen members. Members shall be appointed as follows: three members to be appointed by the Speaker of the House of Delegates; two members to be appointed by the Senate Committee on Rules; and 10 members to be appointed by the Governor, of whom seven shall be from among the boards, staffs, and volunteers of the Virginia chapters of the Alzheimer's Disease and Related Disorders Association and three shall be from the public at large.

Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute

a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership. A majority of the voting members shall constitute a quorum. The Commission shall meet at least four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the voting members so request.

C. Members shall receive such compensation for the discharge of their duties as provided in § [2.2-2813](#). All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#). Funding for the costs of compensation and expenses of the members shall be provided by the Department.

D. The Commission shall have the power and duty to:

1. Examine the needs of persons with Alzheimer's disease and related disorders, as well as the needs of their caregivers, and ways that state government can most effectively and efficiently assist in meeting those needs;

2. Develop and promote strategies to encourage brain health and reduce cognitive decline;

3. Advise the Governor and General Assembly on policy, funding, regulatory, and other issues related to persons suffering from Alzheimer's disease and related disorders and their caregivers;

4. Develop the Commonwealth's plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, and advocate for such plan;

5. Submit to the Governor, General Assembly, and Department by October 1 of each year an electronic report regarding the activities and recommendations of the Commission, which shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website and the Department's website; and

6. Establish priorities for programs among state agencies related to Alzheimer's disease and related disorders and criteria to evaluate these programs.

E. The Department shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

F. The Commission may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section and may comply with such conditions and requirements as may be imposed in connections therewith.

G. This section shall expire on July 1, 2023.

2003, cc. [749](#), [766](#), § 2.2-720; 2005, cc. [633](#), [758](#); 2006, cc. [347](#), [381](#); 2009, cc. [51](#), [553](#); 2010, cc. [411](#), [801](#); 2012, cc. [803](#), [835](#); 2014, cc. [434](#), [520](#); 2017, cc. [191](#), [469](#); 2020, cc. [226](#), [419](#).

Article 8 - Virginia Respite Care Grant Program

§§ 51.5-155 through 51.5-158. Repealed.

Repealed by Acts 2020, c. [728](#), cl. 2.

Article 9 - AUXILIARY GRANTS

§ 51.5-159. Definitions.

For the purposes of this article:

"Auxiliary grant" means cash payments made to certain older, blind, or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive such benefits but for excessive income.

"Case manager" means an employee of a human services agency who is qualified and designated to develop and coordinate plans of care.

2012, cc. [803](#), [835](#).

§ 51.5-160. Auxiliary grants program; administration of program.

A. As used in this section:

"Qualified assessor" means an individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of supportive housing or an assisted living facility. For public pay individuals, a "qualified assessor" is an employee of a public human services agency trained in the completion of the uniform assessment instrument. For individuals receiving services from a community services board or behavioral health authority, a "qualified assessor" is an employee or designee of the community services board or behavioral health authority.

"Supportive housing" means a residential setting with access to supportive services for an auxiliary grant recipient in which tenancy as described in subsection B of § [37.2-421.1](#) is provided or facilitated by a provider licensed to provide mental health community support services, intensive community treatment, programs of assertive community treatment, supportive in-home services, or supervised living residential services that has entered into an agreement with the Department of Behavioral Health and Developmental Services pursuant to § [37.2-421.1](#).

B. The Commissioner is authorized to prepare and implement, effective with repeal of Titles I, X, and XIV of the Social Security Act, a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals who (i) are ineligible for benefits under Title XVI of the Social Security Act, as amended, or for whom benefits provided under Title XVI of the Social Security Act, as amended, are not sufficient to maintain the minimum standards of need established by regulations promulgated by the Commissioner and (ii) reside in supportive housing, an assisted living facility licensed by the Department of Social Services pursuant to Chapter 17 (§ [63.2-1700](#) et seq.) of Title 63.2, or an adult foster care home approved by a local board of social services pursuant to § [63.2-](#)

[1601](#). The plan shall be in effect in all political subdivisions in the Commonwealth and shall be administered in conformity with regulations of the Commissioner.

Nothing herein is to be construed to affect any such section as it relates to Temporary Assistance for Needy Families, general relief, or services to persons eligible for assistance under P.L. 92-603.

C. Auxiliary grant recipients shall be entitled to a personal needs allowance when computing the amount of the auxiliary grant. The amount of such personal needs allowance shall be set forth in the appropriation act.

D. The Commissioner shall adopt regulations for the administration of the auxiliary grants program that shall include the establishment of auxiliary grant rates for adult foster care homes and licensed assisted living facilities. Such regulations shall also include (i) the process for reporting and certification; (ii) the services to be provided to the auxiliary grant recipient and paid for by the auxiliary grant and not charged to the recipient's personal needs allowance; and (iii) the process for supportive housing providers, assisted living facilities, and adult foster care homes to report and certify maintenance of the personal needs allowance and compliance with regulations for administration of the auxiliary grants program.

E. In order to receive an auxiliary grant while residing in supportive housing or an assisted living facility, an individual shall have been evaluated by a case manager or other qualified assessor using the uniform assessment instrument to determine his need for residential living care upon admission and annually thereafter, or whenever there is a change in the individual's condition that appears to warrant a change in the resident's approved level of care. An individual may select, subject to availability, supportive housing or an assisted living facility pending evaluation and assessment or as allowed by regulations of the Commissioner. In no event shall any public agency incur a financial obligation if the individual is determined ineligible for an auxiliary grant.

The Commissioner shall adopt regulations to implement the provisions of this subsection.

F. Provisions of Chapter 5 (§ [63.2-500](#) et seq.) of Title 63.2, relating to the administration of public assistance programs, shall govern operations of the auxiliary grant program established pursuant to this section.

G. Assisted living facilities, adult foster care homes, and supportive housing providers providing services to auxiliary grant recipients may accept payments made by third parties for services provided to an auxiliary grant recipient, and the Department shall not include such payments as income for the purpose of determining eligibility for or calculating the amount of an auxiliary grant, provided that the payment is made:

1. Directly to the assisted living facility, adult foster care home, or supportive housing provider by the third party on behalf of the auxiliary grant recipient;
2. Voluntarily by the third party, and not in satisfaction of a condition of admission, stay, or provision of proper care and services to the auxiliary grant recipient, unless the auxiliary grant recipient's physical

needs exceed the services required to be provided by the assisted living facility or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D; and

3. For specific goods and services provided to the auxiliary grant recipient other than food, shelter, or specific goods or services required to be provided by the assisted living facility, adult foster care home, or supportive housing provider as a condition of participation in the auxiliary grant program pursuant to subsection D.

H. Assisted living facilities, adult foster care homes, and supportive housing providers shall document all third-party payments received on behalf of an auxiliary grant recipient, including the source and amount of the payment and the goods and services for which such payments are to be used. Documentation related to the third-party payments shall be provided to the Department upon request.

I. Assisted living facilities, adult foster care homes, and supportive housing providers shall provide each auxiliary grant recipient with a written list of the goods and services that are covered by the auxiliary grant pursuant to subsection D, including a clear statement that the facility, home, or provider may not charge an auxiliary grant recipient or the recipient's family additional amounts for goods or services included on such list.

1973, c. 264, § 63.1-25.1; 1974, cc. 44, 45; 1981, c. 21; 1985, c. 229; 1991, c. 532; 1993, cc. 957, 993; 1995, c. [649](#); 2002, c. [747](#), § 63.2-800; 2012, cc. [128](#), [387](#), [803](#), [835](#); 2016, cc. [567](#), [636](#); 2019, cc. [657](#), [658](#).

Article 10 - COMMUNITY-BASED SERVICES FOR PEOPLE WITH DISABILITIES

§ 51.5-161. Awarding of grants; purposes; eligible applicants.

A. The Department is authorized, subject to other requirements of this law, to make grants or enter into contracts, in accordance with rules and regulations of the Commissioner, for the following purposes:

1. To promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities and the integration and full inclusion of individuals with disabilities into the mainstream of society by:

a. Providing financial assistance for expanding and improving the provision of independent living services; and

b. Providing financial assistance to develop and support a statewide network of centers for independent living; and

2. To assist employers in employing, training, and providing other related services to persons with significant disabilities.

B. Applications for the grants and contracts authorized in subdivision A 1 may be made by consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agencies that (i) are

designed and operated within a local community by individuals with disabilities and (ii) provide an array of independent living services. Each applicant shall be established and shall have a governing board, the majority of whose members shall be persons with disabilities, for the sole purpose of operating the independent living center.

C. Applications for the grants and contracts authorized in subdivision A 2 may be made by employers in the Commonwealth who wish to take affirmative steps to employ and advance in employment persons with disabilities.

1985, c. 421, §§ 51.01-23, 51.5-23; 1992, c. 755; 2003, c. [503](#); 2011, cc. [7](#), [166](#); 2012, cc. [803](#), [835](#).

§ 51.5-162. Independent living services.

Independent living services provided pursuant to this article shall be provided in accordance with the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), as amended.

1985, c. 421, §§ 51.01-24, 51.5-24; 2003, c. [503](#); 2012, cc. [803](#), [835](#).

§ 51.5-163. Centers for independent living.

A. Services provided through grants or contracts with centers for independent living pursuant to this article shall include:

1. Advocacy;
2. Peer counseling;
3. Independent living skills training;
4. Information and referral; and
5. Services that (i) facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences with the requisite supports and services, (ii) provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community, and (iii) facilitate the transition of youth with significant disabilities, who were eligible for individualized education programs under § 614(d) of the Individuals with Disabilities Education Act or who have completed their secondary education, to post-secondary life.

Services may include other services deemed necessary by the local consumer base.

B. Centers for independent living funded in whole or in part by the Department shall be staffed by persons with disabilities who are trained in the philosophy of independent living. The majority of management staff shall include persons with disabilities.

1985, c. 421, §§ 51.01-25, 51.5-25; 2003, c. [503](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-164. Statewide Independent Living Council created.

The Statewide Independent Living Council is hereby created to develop and sign the Statewide Plan for Independent Living in accordance with Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. § 796 et seq.) and to perform other activities as provided in such Act. Membership and duties shall be

constructed according to federal provisions. The Department shall provide staff support for the Council.

1994, c. [81](#), § 51.5-25.1; 2006, cc. [110](#), [169](#); 2007, cc. [473](#), [556](#); 2011, cc. [7](#), [166](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-165. Repealed.

Repealed by Acts 2016, c. [27](#), cl. 2.

§ 51.5-166. Eligibility criteria.

The Commissioner shall establish eligibility criteria for services to be applied by programs awarded grants pursuant to this article. Such criteria shall provide that:

1. Eligibility shall be determined without regard to sex, sexual orientation, gender identity, race, national origin, religion, or type of impairment of the person applying for the service;
2. Preference shall be given to applicants for services whose impairments are so severe that they do not presently have the potential for employment, but whose ability to live and function independently within their family settings or communities may be improved by the services for which they have applied; and
3. Services shall not be provided to people who are eligible for prevocational or supported employment services through a Medicaid home and community based waiver program.

1985, c. 421, §§ 51.01-27, 51.5-27; 1992, c. 755; 2012, cc. [803](#), [835](#); 2020, c. [1137](#).

§ 51.5-167. Participation by clients in cost of services.

The Commissioner shall establish written standards for determining the extent to which a client shall be financially responsible for the cost of services funded in whole or in part by the Department. Each public or private agency awarded a grant or contract in accordance with § [51.5-161](#) shall utilize the Commissioner's regulations to maximize the financial participation of persons receiving services.

1985, c. 421, §§ 51.01-28, 51.5-28; 1987, c. 50; 1992, c. 755; 2012, cc. [803](#), [835](#).

§ 51.5-168. Rights of clients.

The Commissioner shall establish written standards governing the rights of clients of services provided by public or private agencies in accordance with § [51.5-161](#). Each such public and private agency shall educate clients and staff regarding those rights and shall provide a procedure to fairly and impartially resolve conflicts and complaints about alleged violations of those rights. Each such agency shall make referrals consistent with the provisions of 29 U.S.C. § 732.

1985, c. 421, §§ 51.01-29, 51.5-29; 1992, c. 755; 2012, cc. [803](#), [835](#).

§ 51.5-169. Cooperative agreements with community services boards and schools.

No services funded under the authority of this article shall be provided to:

1. Persons whose primary impairment is mental illness, intellectual disability, or substance abuse, except by cooperative agreement with the local community services board established pursuant to

Chapter 5 (§ [37.2-500](#) et seq.) of Title 37.2 or the behavioral health authority established pursuant to Chapter 6 (§ [37.2-600](#) et seq.) of Title 37.2 when that board or authority is currently offering the same services; or

2. Public school-aged persons, except by cooperative agreement with that person's school.

1985, c. 421, §§ 51.01-30, 51.5-30; 2012, cc. [476](#), [507](#), [803](#), [835](#).

§ 51.5-169.1. Long-Term Employment Support Services and Extended Employment Services.

A. Long-Term Employment Support Services and Extended Employment Services shall be provided in the Commonwealth to assist individuals with a significant disability or most significant disability with maintaining employment. The Department shall administer and make referrals for such services in accordance with the provisions of this section.

B. Long-Term Employment Support Services shall be provided to individuals with a most significant disability, as defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based, facility-based, or community-based employment through an employment services organization.

All employment services organizations that provide group-supported, center-based, facility-based, or community-based employment services to individuals with a most significant disability shall be eligible to receive funding for Long-Term Employment Support Services.

C. Extended Employment Services shall be provided to individuals with a most significant disability and individuals with a significant disability, as those terms are defined in 29 U.S.C. § 705, to assist such individuals with maintaining group-supported employment or individual center-based or facility-based employment through an employment services organization. Extended Employment Services funds may also be used to support such individuals that transition from group-supported, center-based, or facility-based employment into community-based employment. Extended Employment Services shall be provided upon the informed choice of the individual being served and in accordance with the Commonwealth's Employment First initiative, federal law and regulation, and the Commonwealth's August 23, 2012, settlement agreement with the U.S. Department of Justice.

All employment services organizations that provide group-supported, center-based, or facility-based employment services to individuals with a most significant disability or individuals with a significant disability, or that provide community-based employment services to such individuals transitioning from group-supported, center-based, or facility-based employment, shall be eligible to receive funding for Extended Employment Services.

D. The Department shall make referrals to any employment services organization that provides competitive or commensurate wages and is eligible to receive state-funded Long-Term Employment Support Services pursuant to subsection B or Extended Employment Services pursuant to subsection C. The Department shall develop and implement a referral process to refer individuals to employment services organizations for services described in subsections B and C. Such referral process shall require

that whenever an individual makes an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department, the Department shall refer the individual to eligible employment services organizations that provide the employment services sought by the individual within 15 days. Upon making such referrals, the Department shall provide to the employment services organization, in writing, (i) a referral letter that includes the skills, likes, dislikes, and desired outcome of the individual seeking services; (ii) certification that the individual made an informed choice to pursue an employment outcome that is not considered a competitive integrated employment setting by the Department; and (iii) the contact information of the individual seeking services. The Department shall also provide to the individual seeking services, in writing, (a) the contact information of the employment services organizations to which the individual is referred and (b) information and advice regarding the services available at such employment services organizations that will help the individual to prepare for, secure, maintain, or regain employment in accordance with the provisions of this section and applicable federal law and regulations. The Department shall provide training to all vocational rehabilitation counselors immediately upon employment and annually thereafter regarding the referral process established by the Department pursuant to this subsection.

E. In allocating funds for Long-Term Employment Support Services and Extended Employment Services, the Department shall consider recommendations made by the Employment Service Organization Steering Committee established in § [51.5-169.2](#).

2018, cc. [243](#), [377](#); 2019, cc. [851](#), [852](#).

§ 51.5-169.2. Employment Service Organization Steering Committee; membership; terms.

A. The Employment Service Organization Steering Committee (the Committee) is established as an advisory board, within the meaning of § [2.2-2100](#), in the executive branch of state government. The purpose of the Committee shall be to report to and advise the Commissioner on policy, funding, and the allocation of funds to employment services organizations for Long-Term Employment Support Services and Extended Employment Services pursuant to § [51.5-169.1](#).

B. The Committee shall consist of 11 nonlegislative citizen members who shall be appointed as follows: four members to be appointed by the Senate Committee on Rules, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, and one of whom shall be a representative of the Virginia Association of People Supporting Employment First; five members to be appointed by the Speaker of the House of Delegates, two of whom shall be representatives of the Virginia Association of Community Rehabilitation Programs, one of whom shall be a representative of the Virginia Goodwill Network, one of whom shall be a representative of the Virginia Association of People Supporting Employment First, and one of whom shall be an individual who has a family member receiving services in an employment services organization that is eligible to receive funding pursuant to § [51.5-169.1](#); and two at-large members to be appointed by the Governor. No employee, agent, or representative of the Commonwealth may serve as a member of the Committee.

C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No member shall serve more than two consecutive three-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

D. Each year, the Committee shall elect a chairman and a vice-chairman from among its members. Five members of the Committee shall constitute a quorum. The Committee shall meet no more than four times per year.

E. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#).

2019, c. [851](#), [852](#).

Article 11 - Vocational Rehabilitation

§ 51.5-170. Eligibility.

The Commissioner shall adopt written standards for determining eligibility for vocational rehabilitation services provided or funded, in whole or in part, by the Department, which ensure that eligibility is determined without regard to sex, sexual orientation, gender identity, race, national origin, religion, or type of impairment of the person applying for services and is determined solely by reference to specific written criteria.

1985, c. 421, §§ 51.01-15 51.5-15; 1992, c. 755; 2012, cc. [803](#), [835](#); 2020, c. [1137](#).

§ 51.5-171. Assessment.

When an individual applies for vocational rehabilitation services provided or funded by the Department, in whole or in part, an assessment shall be made to determine eligibility for benefits according to the standards adopted pursuant to § [51.5-170](#). If, after an assessment, eligibility is established, a comprehensive assessment shall be conducted to ascertain the nature and scope of services needed by the applicant. Both assessments shall be carried out with the involvement of the applicant and his parents or guardian if appropriate. Both assessments shall include, when appropriate, (i) a review of existing data and, to the extent necessary, the provision of appropriate assessment activities to obtain necessary data to determine eligibility and services needed; (ii) referral for the provision of rehabilitation technology services to assess and develop the individual's capacities to perform in a work environment; and (iii) referral to other agencies and organizations for appropriate assessment services.

1985, c. 421, §§ 51.01-16, 51.5-16; 1989, c. 181; 2002, c. [46](#); 2012, c. [803](#), [835](#).

§ 51.5-172. Individualized plan for employment.

A written individualized plan for employment for each recipient of vocational rehabilitation services provided or funded by the Department, in whole or in part, shall be developed as soon as possible, but

not later than 90 days after the due date of the determination of eligibility, unless an extension is agreed to by the client, his parents or guardian, if appropriate, and the Department. The plan shall be agreed to and signed by the client, his parents or guardian, if appropriate, and a qualified vocational rehabilitation counselor employed by the Department. When the Department is operating under an order of selection, the plan shall be developed and implemented for individuals meeting the Department's order of selection criteria. The plan shall be reviewed at least annually by the client, his parents or guardian, if appropriate, and the qualified vocational rehabilitation counselor.

1985, c. 421, §§ 51.01-17, 51.5-17; 2002, c. [46](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-173. Services for individuals.

A. Vocational rehabilitation services provided by the Department shall address comprehensively the individual needs of each client to the maximum extent possible with resources available to the Department, through the following:

1. An assessment for determining eligibility and vocational needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
2. Counseling and guidance, including information and support services to assist an individual in exercising informed choice, and referral necessary to help applicants or clients to secure needed services from other agencies;
3. Diagnosis and treatment of physical or mental impairments, including:
 - a. Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but that is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
 - b. Necessary hospitalization in connection with surgery or treatment;
 - c. Prosthetic and orthotic devices;
 - d. Eyeglasses and visual services as prescribed by qualified personnel who meet state licensure laws and who are selected by the client;
 - e. Special services including transplantation and dialysis, artificial kidneys, and supplies necessary for the treatment of clients with end-stage renal disease; and
 - f. Diagnosis and treatment for mental and emotional disorders by qualified personnel who meet state licensure laws;
4. Vocational and other training services, including the provision of personal and vocational-adjustment services, books, tools, and other training materials, except that no training services provided at institutions of higher education shall be paid for with funds under this article unless maximum efforts have been made to secure grant assistance in whole or part from other funding sources;

5. Maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
6. Transportation, including adequate training in the use of public transportation vehicles and systems that is provided in connection with the provision of any other services described in this section and needed by the client to achieve an employment outcome;
7. Services to members of a client's family when such services are necessary to assist the client to achieve an employment outcome;
8. Interpreter services provided by qualified personnel for clients who are deaf or hard of hearing and reader services for clients determined to be blind, after an examination by qualified personnel who meet state licensure laws;
9. Rehabilitation technology, including telecommunications and sensory and other technological aids and devices;
10. Job-related services, including job search and assistance, job retention services, follow-up services, and follow-along services;
11. Specific post-employment services necessary to assist the client to retain, regain, or advance in employment;
12. Occupational licenses, tools, equipment, and initial stocks and supplies;
13. On-the-job or other related personal assistance services provided while a client is receiving other services described in this section;
14. Supported employment services which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training, and job follow-through for the disabled employee;
15. Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible clients pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
16. Transition services for students with disabilities that facilitate the transition from school to post-secondary life, such as the achievement of an employment outcome in competitive integrated employment or pre-employment transition services;
17. Customized employment for an individual with a significant disability in a competitive integrated setting that is based on the strengths, needs, interests, and abilities of the individual and the business needs of the employer; and

18. Encouragement of qualified individuals who are eligible to receive services to pursue advanced training in the fields of science, technology, engineering, mathematics (including computer science fields), medicine, law, or business.

B. Written standards shall be established by the Commissioner detailing the scope and nature of each vocational rehabilitation service authorized herein, the conditions, criteria and procedures under which each service may be provided, and the use of entitlements and other benefits to access these services, when appropriate.

C. In providing the foregoing services, the Department shall determine whether comparable services and benefits are available under any other program unless such a determination would interrupt or delay the progress of the client toward achieving the employment outcome identified in the individualized plan for employment, an immediate job placement, or the provision of such service to any client at extreme medical risk.

1985, c. 421, §§ 51.01-18, 51.5-18; 1989, c. 181; 1992, c. 755; 2001, c. [483](#); 2002, c. [46](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-174. Services for groups.

Vocational rehabilitation services provided by the Department for the benefit of groups shall include, to the maximum extent possible with the resources available to the Department:

1. The establishment, development, or improvement of community rehabilitation programs, which shall be used to provide services under this section that promote integration into the community and prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment;
2. Transition services to youth with disabilities and students with disabilities, for which a vocational rehabilitation counselor works in concert with educational agencies, providers of job training programs, providers of services under the Medicaid program pursuant to Title XIX of the federal Social Security Act (42 U.S.C. § 1396 et seq.), entities designated by the Department to provide services for individuals with developmental disabilities, centers for independent living, housing and transportation authorities, workforce development systems, businesses, and employers;
3. The use of telecommunications systems, including telephone, television, satellite, radio, and other similar systems that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;
4. Technical assistance to businesses that are seeking to employ individuals with disabilities;
5. Consultation and technical assistance services to assist state and local educational agencies in planning for the transition of students with disabilities from school to post-secondary life, including employment;

6. The establishment, development, or improvement of assistive technology demonstration, loan, reutilization, or financing programs in coordination with activities authorized by the Assistive Technology Act of 1968 (29 U.S.C. § 3001 et seq.) to promote access to assistive technology for individuals with disabilities and employers; and

7. Support, including tuition where appropriate, for advanced training in the fields of science, technology, engineering, mathematics (including computer science fields), medicine, law, or business, consistent with the requirements in § 103 of the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.).

1985, c. 421, §§ 51.01-19, 51.5-19; 2002, c. [46](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-175. Case closure in extended employment.

When a case is closed upon a client's placement in extended employment in a community rehabilitation program or any other employment under § 14(c) of the Fair Labor Standards Act (29 U.S.C. § 214(c)), the case shall be reviewed by the Department semiannually for two years after the start of employment, and annually thereafter, to determine the interests, priorities, and needs of the individual with respect to competitive integrated employment or training for competitive employment.

1985, c. 421, §§ 51.01-20, 51.5-20; 2002, c. [46](#); 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-176. Participation by clients in cost of services.

The Commissioner shall adopt written standards for determining the extent to which clients shall be responsible for the cost of vocational rehabilitation services provided or funded by the Department. However, the provision of the following services by the Department shall not be conditioned on the client's or applicant's ability to pay for the cost of those services: (i) evaluation of rehabilitation potential, except for vocational services other than those of a diagnostic nature which are provided under an evaluation of rehabilitation potential; (ii) counseling, guidance, and referral services; and (iii) placement and follow-up. The Department shall maximize financial participation of persons receiving services and shall maximize reimbursement from responsible third-party payors.

1985, c. 421, §§ 51.01-21, 51.5-21; 1987, c. 50; 1992, c. 755; 2012, cc. [803](#), [835](#); 2016, c. [27](#).

§ 51.5-177. Client rights regarding services.

The Commissioner shall establish written standards governing the rights of applicants for and clients who receive vocational rehabilitation services which are provided or funded by the Department. The Department shall educate clients and staff regarding those rights and provide a procedure for fairly and impartially resolving conflicts and complaints about alleged violations of those rights. The Department shall make referrals consistent with the provisions of 29 U.S.C. § 732.

1985, c. 421, §§ 51.01-22, 51.5-22; 1992, c. 755; 2012, c. [803](#), [835](#).

§ 51.5-177.1. Vocational rehabilitation and employment services for law-enforcement officers with a disability.

A. The Department shall make information regarding vocational rehabilitation programs and employment services available to assist former law-enforcement officers who have a disability as a result of their service with preparing for, obtaining, and maintaining suitable employment, including information on the types of programs available and the process by which former law-enforcement officers who have a disability as a result of their service can access such programs and services, available to law-enforcement agencies in the Commonwealth.

B. Every law-enforcement agency in the Commonwealth shall provide to every law-enforcement officer who separates from the agency due to a disability resulting from his service information regarding vocational rehabilitation programs and employment services available to assist former law-enforcement officers who have a disability as a result of their service with preparing for, obtaining, and maintaining suitable employment, including information on the types of programs available and the process by which such law-enforcement officers may access such programs and services.

2020, c. [553](#).

Article 12 - COMMONWEALTH NEUROTRAUMA INITIATIVE

§ 51.5-178. Definitions.

As used in this article:

"Advisory Board" means the Commonwealth Neurotrauma Initiative Advisory Board established pursuant to § [51.5-180](#).

"Fund" means the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to § [51.5-179](#).

"Neurotrauma" means an injury to the central nervous system, that is, a traumatic spinal cord or brain injury which results in loss of physical and cognitive functions.

2002, c. [60](#), § 51.5-12.1; 2012, cc. [803](#), [835](#).

§ 51.5-179. Commonwealth Neurotrauma Initiative Trust Fund established.

A. For the purpose of preventing traumatic spinal cord or brain injuries and improving the treatment and care of Virginians with traumatic spinal cord or brain injuries, there is hereby created in the state treasury a special nonreverting fund to be known as the Commonwealth Neurotrauma Initiative Trust Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller as a revolving fund and shall be administered by the Commonwealth Neurotrauma Initiative Advisory Board in cooperation with the Commissioner. The Fund shall consist of grants, donations, and bequests from public and private sources and funds collected as provided in § [46.2-411](#). Such moneys shall be deposited into the state treasury to the credit of the Fund and shall be used for the purposes of this article.

B. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered by the Commissioner and distributed according to the grant procedures established pursuant to § [51.5-181](#).

Moneys in the Fund shall be used to support grants for Virginia-based organizations, institutions, and researchers as follows: (i) 47.5 percent shall be allocated for research on the mechanisms and treatment of neurotrauma, (ii) 47.5 percent shall be allocated for rehabilitative services, and (iii) five percent shall be allocated for the Department's costs for administering and staffing the Commonwealth Neurotrauma Initiative Advisory Board.

2002, c. [60](#), § 51.5-12.2; 2012, cc. [803](#), [835](#).

§ 51.5-180. Commonwealth Neurotrauma Initiative Advisory Board established; membership; terms; duties and responsibilities.

A. For the purpose of administering the Commonwealth Neurotrauma Initiative Trust Fund, in cooperation with the Commissioner, there is hereby established the Commonwealth Neurotrauma Initiative Advisory Board, hereinafter referred to as the Advisory Board. The Department shall provide organizational staff support for the Advisory Board.

The Advisory Board shall consist of seven members as follows: one person licensed to practice medicine in Virginia experienced with brain or spinal cord injury; one person licensed by a health regulatory board within the Department of Health Professions with experience in brain or spinal cord injury rehabilitative programs or services; one Virginian with traumatic spinal cord injury or a caretaker thereof; one Virginian with traumatic brain injury or a caretaker thereof; one citizen-at-large who shall not be an elected or appointed public official; the Commissioner; and the State Health Commissioner. The Commissioner and the Commissioner of Health may appoint designees to serve on the Advisory Board. Board members shall be appointed by the Governor. Nominations for appointments may be submitted, at the discretion of the Governor, from relevant organizations.

B. All members shall be appointed by the Governor for terms of four years. No member shall serve more than two successive terms of four years. The chairman shall be elected from the membership of the Advisory Board for a term of one year and shall be eligible for reelection. The Advisory Board shall meet at the call of the chairman or the Commissioner.

C. The Advisory Board shall:

1. Administer, in cooperation with the Commissioner, the Commonwealth Neurotrauma Initiative Trust Fund, in accordance with such regulations as shall be established for the Fund by the Commissioner;
2. Recommend to the Commissioner the policies and procedures for the administration of the Fund, including criteria for reviewing and ranking grant applications, distribution of funds, and areas of research needed in accordance with the provisions of subsection B of § [51.5-179](#);
3. Review and rank, or arrange for reviewers and technical advisers to review and rank, grant applications for education, basic science and clinical research, and rehabilitative research and community-based rehabilitative services; and
4. Report triennially on October 1, to the Governor and the General Assembly, aggregate data on the operations and funding of the Commonwealth Neurotrauma Initiative Trust Fund.

D. The Advisory Board may appoint grant reviewers and other technical advisers to assist it in its duties. Such reviewers and technical advisers shall be appointed in such manner as to provide equal representation from Virginia's three medical schools. Whenever reviewers or technical advisers sit as a committee, the chairman of the Advisory Board or his designee shall serve as chairman.

2002, c. [60](#), § 51.5-12.3; 2008, c. [40](#); 2012, cc. [803](#), [835](#).

§ 51.5-181. Procedures for grant applications.

The Commissioner shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Commonwealth Neurotrauma Initiative Advisory Board prior to promulgating or revising any such regulations.

2002, c. [60](#), § 51.5-12.4; 2012, cc. [803](#), [835](#).

Article 13 - State Long-Term Care Ombudsman Program

§ 51.5-182. Responsibility for complaints and investigations.

In addition to its responsibilities for complaints regarding services provided by long-term care facilities pursuant to the Older Americans Act, 42 U.S.C. § 3001 et seq., as amended, the Office of the State Long-Term Care Ombudsman shall investigate complaints regarding services provided by (i) licensed adult day care centers as defined in § [63.2-100](#), (ii) home care organizations as defined in § [32.1-162.7](#), (iii) hospice facilities as defined in § [32.1-162.1](#), (iv) providers as defined in § [37.2-403](#), (v) state hospitals operated by the Department of Behavioral Health and Developmental Services, and (vi) an area agency on aging or any private nonprofit or proprietary agency providing services.

Nothing in this section shall affect the services provided by local departments of social services pursuant to § [63.2-1605](#).

2020, c. [728](#).

§ 51.5-183. Access to clients, patients, individuals, providers, and records by Office of the State Long-Term Care Ombudsman; interference, retaliation, and reprisals against complainants.

A. The Office of the State Long-Term Care Ombudsman pursuant to the Older Americans Act, 42 U.S.C. § 3001 et seq., shall, in the performance of its functions, responsibilities, and duties, have access to (i) licensed assisted living facilities and adult day care centers as those terms are defined in § [63.2-100](#), (ii) home care organizations as defined in § [32.1-162.7](#), (iii) hospice facilities as defined in § [32.1-162.1](#), (iv) certified nursing facilities and nursing homes as those terms are defined in § [32.1-123](#), (v) providers as defined in § [37.2-403](#), (vi) state hospitals operated by the Department of Behavioral Health and Developmental Services, and (vii) providers of services by an area agency on aging or any private nonprofit or proprietary agency providing services; the clients, patients, and individuals receiving services; and the records of such clients, patients, and individuals whenever the Office of the

State Long-Term Care Ombudsman has the consent of the client, patient, or individual receiving services or his legal representative. However, if a client, patient, or individual receiving services is unable to consent to the review of his medical and social records and has no legal representative, and access to the records is necessary to investigate a complaint, access shall be granted to the extent necessary to conduct the investigation. Further, access shall be granted to the Office of the State Long-Term Care Ombudsman if a legal representative of the client, patient, or individual receiving services refuses to give consent and the Office of the State Long-Term Care Ombudsman has reasonable cause to believe that the legal representative is not acting in the best interests of the client, patient, or individual receiving services. Notwithstanding the provisions of § [32.1-125.1](#), the Office of the State Long-Term Care Ombudsman shall have access to state hospitals in accordance with this section. Access to patients, residents, and individuals receiving services and their records and to providers shall be available at any time during a provider's regular business or visiting hours and at any other time when access is required by the circumstances to be investigated. Records that are confidential under federal or state law shall be maintained as confidential by the Office of the State Long-Term Care Ombudsman and shall not be further disclosed, except as permitted by law. However, notwithstanding the provisions of this section, there shall be no right of access to privileged communications pursuant to § [8.01-581.17](#).

B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals a person who in good faith complains or provides information to, or otherwise cooperates with, the Office of the State Long-Term Care Ombudsman or any of its representatives or designees. The Commissioner shall promulgate regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the Older Americans Act, 42 U.S.C. § 3001 et seq.

2020, c. [728](#).

§ 51.5-184. Confidentiality of records of Office of the State Long-Term Care Ombudsman.

A. All documentary and other evidence received or maintained by the Office of the State Long-Term Care Ombudsman, the Department, or their agents in connection with specific complaints or investigations under any program of the Office of the State Long-Term Care Ombudsman shall be confidential and not subject to the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.), except that such information may be released on a confidential basis in compliance with regulations adopted by the Department and consistent with provisions of subdivision 4 of § [2.2-601](#) and with the requirements of the Older Americans Act, 42 U.S.C. § 3001 et seq.

B. The Office of the State Long-Term Care Ombudsman shall release information concerning completed investigations of complaints made under the programs of the Office of the State Long-Term Care Ombudsman but shall in no event release the identity of any complainant or individual receiving services from a long-term care provider that was the subject of a complaint unless (i) the complainant, or if the complainant is not the individual receiving services, the individual receiving services, or his legal representative and the complainant, consents to disclosure or (ii) disclosure is required by court

order. The Office of the State Long-Term Care Ombudsman shall establish procedures to notify long-term care providers of the nature of complaints and its findings.

2020, c. [728](#).

§ 51.5-185. Protection for representatives of the Office of the State Long-Term Care Ombudsman; interference, retaliation, and reprisals.

A. Any designated representative of the Office of the State Long-Term Care Ombudsman who in good faith with reasonable cause and without malice performs the official duties of ombudsman, including acting to report, investigate, or cause any investigation to be made regarding a long-term care provider, shall be immune from any civil liability that might otherwise be incurred or imposed as the result of making the report or investigation.

B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals the Office of the State Long-Term Care Ombudsman or any of its representatives or designees for actions taken in fulfillment of its functions, responsibilities, or duties. The Commissioner shall promulgate regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the Older Americans Act, 42 U.S.C. § 3001 et seq.

C. The Department shall put in place mechanisms to ensure that the Office of the State Long-Term Care Ombudsman may (i) analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and policies and actions related to long-term care services and providers or to the health, safety, welfare, and rights of individuals receiving long-term care services; (ii) recommend changes to such laws, regulations, and policies; and (iii) provide information, recommendations, and the position of the Office of the State Long-Term Care Ombudsman to public and private agencies, legislators, media, and other persons regarding concerns of individuals receiving long-term care services. Any comments, determinations, recommendations, and positions of the Office of the State Long-Term Care Ombudsman shall be clearly labeled as those of the Office of the State Long-Term Care Ombudsman and shall not be binding on the Department.

2020, c. [728](#).