

# VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

## CHAPTER 867

*An Act to amend and reenact § 63.1-198.4 of the Code of Virginia, relating to criminal record waiver for child welfare agencies.*

[H 2378]

Approved April 21, 2001

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.1-198.4 of the Code of Virginia is amended and reenacted as follows:**

§ 63.1-198.4. Criminal record review and waiver.

A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is disqualified because of a conviction in his criminal record review *or a conviction in the criminal record review of any other adult living in a family day home regulated by the Department*, pursuant to §§ 63.1-198, 63.1-198.1, 63.1-198.2 or § 63.1-199, may apply in writing for a waiver from the Commissioner. The Commissioner may grant a waiver if the Commissioner determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Commissioner shall not grant a waiver to any person who has been convicted of murder as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by mob as set out in § 18.2-41, abduction as set out in § 18.2-47 A, abduction for immoral purposes as set out in § 18.2-48, assault and bodily wounding as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, car jacking as set out § 18.2-58.1, extortion by threat as set out in § 18.2-60, any felony stalking violation as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in § 18.2-300 A, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, including failing to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, prisoners crimes as set out in § 53.1-203, or an equivalent offense in another state. *However, the Commissioner may grant a waiver to a family day home regulated by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or § 18.2-57.2, provided (i) five years have elapsed following the conviction and (ii) the Department has conducted a home study that includes, but is not limited to, (a) an assessment of the safety of children placed in the home and (b) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2.* Any waiver granted under this section shall be available for inspection by the public. The child welfare agency shall notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees or volunteers.

B. The State Board of Social Services shall promulgate regulations to implement the provisions of subsection A.