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HOUSE BILL NO. 2031

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Local Government
 on February 12, 2003)

(Patron Prior to Substitute—Delegate Petersen)

A BILL to amend and reenact §§ 15.2-709.1 and 27-6.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1505.1, relating to background checks in localities.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-709.1 and 27-6.2 the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding a section numbered 15.2-1505.1 as follows:

§ 15.2-709.1. Applicant preemployment information in Arlington County.

Arlington County, having a local ordinance adopted in accordance with § 19.2-389, shall require applicants for employment with the county to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicants shall, if required by ordinance, pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the county manager or his designee. *In determining whether a criminal conviction directly relates to a position, the locality shall consider the following criteria: (i) the nature and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the position applied for; (iii) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved; (iv) the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.*

If an applicant is denied employment because of information appearing in his criminal history record, the county shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

§ 15.2-1505.1. Applicant preemployment information.

A locality may by ordinance, and in accordance with § 19.2-389, require applicants upon offer of employment with the locality to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. Such applicants shall, if required by ordinance, pay the cost of the fingerprinting or criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the chief administrative officer of the locality or his designee, who must belong to a governmental entity. In determining whether a criminal conviction directly relates to a position, the locality shall consider the following criteria: (i) the nature and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the position applied for; (iii) the extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved; (iv) the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

If an applicant is denied employment because of information appearing in his criminal history record, the locality shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

§ 27-6.2. Applicant preemployment information with Arlington County Fire Department.

Applicants for employment with the Arlington County Fire Department, having a local ordinance

60 adopted in accordance with § 19.2-389, shall be required to submit to fingerprinting and to provide
61 personal descriptive information to be forwarded along with the applicant's fingerprints through the
62 Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining
63 criminal history record information regarding such applicant; however, such applicants shall, if required
64 by local ordinance, pay the cost of the fingerprinting or criminal records check or both.

65 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
66 record exists, shall make a report to the fire chief or his designee. *In determining whether a criminal*
67 *conviction directly relates to a position, the locality shall consider the following criteria: (i) the nature*
68 *and seriousness of the crime; (ii) the relationship of the crime to the work to be performed in the*
69 *position applied for; (iii) the extent to which the position applied for might offer an opportunity to*
70 *engage in further criminal activity of the same type as that in which the person had been involved; (iv)*
71 *the relationship of the crime to the ability, capacity or fitness required to perform the duties and*
72 *discharge the responsibilities of the position being sought; (v) the extent and nature of the person's past*
73 *criminal activity; (vi) the age of the person at the time of the commission of the crime; (vii) the amount*
74 *of time that has elapsed since the person's last involvement in the commission of a crime; (viii) the*
75 *conduct and work activity of the person prior to and following the criminal activity; and (ix) evidence of*
76 *the person's rehabilitation or rehabilitative effort while incarcerated or following release.*

77 If an applicant is denied employment because of information appearing in his criminal history record,
78 the locality shall provide a copy of the information obtained from the Central Criminal Records
79 Exchange to the applicant. The information shall not be disseminated except as provided for in this
80 section.