

073373105

SENATE BILL NO. 1210

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 32.1-126.01, 32.1-162.9:1, 63.2-1720, 63.2-1721, 63.2-1724, and 63.2-1725 of the Code of Virginia, as they are currently effective and as they may become effective, relating to national criminal records checks for prevention of sex offender access to children and others; penalties.

Patron—Hanger

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-126.01, 32.1-162.9:1, 63.2-1720, 63.2-1721, 63.2-1724, and 63.2-1725 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted as follows:

§ 32.1-126.01. (Effective until July 1, 2007 - See note for contingent expiration) Employment for compensation of persons convicted of certain offenses prohibited; criminal records check required; suspension or revocation of license.

A. A licensed nursing home shall not hire for compensated employment, persons who have been convicted of murder or manslaughter 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 subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily woundings 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, carjacking as set out in § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking 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, 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 subsection A of § 18.2-300, 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, failure 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, felonies by prisoners as set out in § 53.1-203, or an equivalent offense in another state. However, a licensed nursing home may hire an applicant who has been convicted of one misdemeanor specified in this section not involving abuse or neglect, if five years have elapsed following the conviction.

Any person desiring to work at a licensed nursing home shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth. Any person making a materially false statement when providing such sworn statement or affirmation regarding any such offense shall be guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

A nursing home shall, within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to convictions for offenses specified in this section or an original criminal history record from the Central Criminal Records Exchange. The provisions of this section shall be enforced by the Commissioner. If an applicant is denied employment because of convictions appearing on his criminal history record, the nursing home shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

The provisions of this section shall not apply to volunteers who work with the permission or under the supervision of a person who has received a clearance pursuant to this section.

B. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

INTRODUCED

SB1210

59 C. A licensed nursing home shall notify and provide to all students a copy of the provisions of this  
60 section prior to or upon enrollment in a certified nurse aide program operated by such nursing home.

61 D. Any business or organization specified by this section must bear the costs of obtaining a national  
62 background check, but may recoup such costs from the applicant.

63 E. Any business or organization specified by this section that knowingly and willfully fails to conduct  
64 a background check as required herein shall be assessed a civil penalty of not more than \$500 by the  
65 Commissioner and is subject to the provisions set forth in § 32.1-135.

66 § 32.1-126.01. (Contingently effective July 1, 2007 - See notes) Employment for compensation of  
67 persons convicted of certain offenses prohibited; criminal records check required; suspension or  
68 revocation of license.

69 A. A licensed nursing home shall not hire for compensated employment, persons who have been  
70 convicted of murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title  
71 18.2, malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of  
72 § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set  
73 out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking  
74 as set out in § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set  
75 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,  
76 arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out  
77 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  
78 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  
79 subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children  
80 as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out  
81 in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure  
82 medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in  
83 § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of  
84 pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in  
85 § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5  
86 (§ 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  
87 set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in  
88 § 53.1-203, or an equivalent offense in another state. However, a licensed nursing home may hire an  
89 applicant who has been convicted of one misdemeanor specified in this section not involving abuse or  
90 neglect, if five years have elapsed following the conviction.

91 Any person desiring to work at a licensed nursing home, beginning on or after July 1, 2007, shall  
92 provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or  
93 any pending criminal charges, whether within or without the Commonwealth. Any person making a  
94 materially false statement when providing such sworn statement or affirmation regarding any such  
95 offense shall be guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the  
96 information provided pursuant to this section is prohibited other than to a federal or state authority or  
97 court as may be required to comply with an express requirement of law for such further dissemination.

98 B. A nursing home shall, within 30 days of employment, obtain for any compensated employees an  
99 original criminal record clearance with respect to convictions for offenses specified in this section. The  
100 applicant shall submit to fingerprinting and provide personal descriptive information to be forwarded  
101 along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal  
102 Bureau of Investigation for the purpose of obtaining a national criminal history record information check  
103 regarding such applicant. The Central Criminal Records Exchange, upon receipt of an applicant's record  
104 or notification that no record exists, shall make a report to the nursing home that the applicant meets the  
105 criteria or does not meet the criteria for employment based on whether or not the applicant has ever  
106 been convicted of any offense set forth in subsection A or an equivalent offense in another state. The  
107 Central Criminal Records Exchange shall not disclose information to a nursing home regarding charges  
108 or convictions of any crimes. If any applicant is denied employment because of information appearing  
109 on the criminal history record and the applicant disputes the information upon which the denial was  
110 based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures  
111 for obtaining a copy of the criminal history record from the Central Criminal Records Exchange or  
112 Federal Bureau of Investigation. The information provided to the nursing home shall not be disseminated  
113 except as provided in this section.

114 In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State  
115 Police may assess a fee for responding to requests required by this section. The provisions of this  
116 section shall be enforced by the Commissioner.

117 The provisions of this section shall not apply to volunteers who work with the permission or under  
118 the supervision of a person who has received a clearance pursuant to this section.

119 C. A person who complies in good faith with the provisions of this section shall not be liable for  
120 any civil damages for any act or omission in the performance of duties under this section unless the act

121 or omission was the result of gross negligence or willful misconduct.

122 D. A licensed nursing home shall notify and provide to all students a copy of the provisions of this  
123 section prior to or upon enrollment in a certified nurse aide program operated by such nursing home.

124 E. Any business or organization specified by this section shall bear the costs of obtaining a national  
125 background check, but may recoup such costs from the applicant.

126 EF. Any business or organization specified by this section that knowingly and willfully fails to  
127 conduct a background check as required herein shall be assessed a civil penalty of not more than \$500  
128 by the Commissioner and is subject to the provisions set forth in § 32.1-135.

129 § 32.1-162.9:1. (Effective until July 1, 2007 - See note for contingent expiration) Employment for  
130 compensation of persons convicted of certain offenses prohibited; criminal records check required;  
131 suspension or revocation of license.

132 A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization  
133 exempt from licensure under subdivision 3 a, b, or c of § 32.1-162.8 or any licensed hospice as defined  
134 in § 32.1-162.1 shall not hire for compensated employment, persons who have been convicted of murder  
135 or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious  
136 wounding by a mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction  
137 for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set out in Article 4  
138 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in  
139 § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in  
140 § 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  
141 set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in  
142 § 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  
143 machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in  
144 subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children  
145 as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out  
146 in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure  
147 medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in  
148 § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of  
149 pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in  
150 § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5  
151 (§ 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  
152 set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in  
153 § 53.1-203, or an equivalent offense in another state.

154 However, a home care organization or hospice may hire an applicant convicted of one misdemeanor  
155 specified in this section not involving abuse or neglect, if five years have elapsed since the conviction.

156 Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any  
157 home care organization exempt from licensure under subdivision 3 a, b, or c of § 32.1-162.8 or any  
158 licensed hospice as defined in § 32.1-162.1 shall provide the hiring facility with a sworn statement or  
159 affirmation disclosing any criminal convictions or any pending criminal charges, whether within or  
160 without the Commonwealth. Any person making a materially false statement when providing such sworn  
161 statement or affirmation regarding any such offense shall be guilty upon conviction of a Class 1  
162 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited  
163 other than to a federal or state authority or court as may be required to comply with an express  
164 requirement of law for such further dissemination.

165 Such home care organization or hospice shall, within 30 days of employment, obtain for any  
166 compensated employees an original criminal record clearance with respect to convictions for offenses  
167 specified in this section or an original criminal history record from the Central Criminal Records  
168 Exchange. The provisions of this section shall be enforced by the Commissioner. If an applicant is  
169 denied employment because of convictions appearing on his criminal history record, the home care  
170 organization or hospice shall provide a copy of the information obtained from the Central Criminal  
171 Records Exchange to the applicant.

172 The provisions of this section shall not apply to volunteers who work with the permission or under  
173 the supervision of a person who has received a clearance pursuant to this section.

174 B. A person who complies in good faith with the provisions of this section shall not be liable for  
175 any civil damages for any act or omission in the performance of duties under this section unless the act  
176 or omission was the result of gross negligence or willful misconduct.

177 C. A licensed home care organization or hospice shall notify and provide all students a copy of the  
178 provisions of this section prior to or upon enrollment in a certified nurse aide program operated by such  
179 home care organization or hospice.

180 D. Any business or organization specified by this section must bear the costs of obtaining a national  
181 background check, but may recoup such costs from the applicant.

182 *E. Any business or organization specified by this section that knowingly and willfully fails to conduct*  
183 *a background check as required herein shall be assessed a civil penalty of not more than \$500 by the*  
184 *Commissioner and is subject to the provisions set forth in §§ 32.1-162.6 and 32.1-162.13*

185 § 32.1-162.9:1. (Contingently effective July 1, 2007 - See notes) Employment for compensation of  
186 persons convicted of certain offenses prohibited; criminal records check required; suspension or  
187 revocation of license.

188 A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization  
189 exempt from licensure under subdivision 3 a, b, or c of § 32.1-162.8 or any licensed hospice as defined  
190 in § 32.1-162.1 shall not hire for compensated employment, persons who have been convicted of murder  
191 or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious  
192 wounding by a mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction  
193 for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set out in Article 4  
194 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in  
195 § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in  
196 § 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  
197 set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in  
198 § 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  
199 machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in  
200 subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children  
201 as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out  
202 in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure  
203 medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in  
204 § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of  
205 pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in  
206 § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5  
207 (§ 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  
208 set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in  
209 § 53.1-203, or an equivalent offense in another state.

210 However, a home care organization or hospice may hire an applicant convicted of one misdemeanor  
211 specified in this section not involving abuse or neglect, if five years have elapsed since the conviction.

212 Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any  
213 home care organization exempt from licensure under subdivision 3 a, b, or c of § 32.1-162.8 or any  
214 licensed hospice as defined in § 32.1-162.1, beginning on or after July 1, 2007, shall provide the hiring  
215 facility with a sworn statement or affirmation disclosing any criminal convictions or any pending  
216 criminal charges, whether within or without the Commonwealth. Any person making a materially false  
217 statement when providing such sworn statement or affirmation regarding any such offense shall be guilty  
218 upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant  
219 to this section is prohibited other than to a federal or state authority or court as may be required to  
220 comply with an express requirement of law for such further dissemination.

221 B. Such home care organization or hospice shall, within 30 days of employment, obtain for any  
222 compensated employees an original criminal record clearance with respect to convictions for offenses  
223 specified in this section. The applicant shall submit to fingerprinting and provide personal descriptive  
224 information to be forwarded along with the applicant's fingerprints through the Central Criminal Records  
225 Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history  
226 record information check regarding such applicant. The Central Criminal Records Exchange, upon  
227 receipt of an applicant's record or notification that no record exists, shall make a report to the home care  
228 organization or hospice that the applicant meets the criteria or does not meet the criteria for employment  
229 based on whether or not the applicant has ever been convicted of any offense set forth in subsection A  
230 or an equivalent offense in another state. The Central Criminal Records Exchange shall not disclose  
231 information to a home care organization or hospice regarding charges or convictions of any crimes. If  
232 any applicant is denied employment because of information appearing on the criminal history record and  
233 the applicant disputes the information upon which the denial was based, the Central Criminal Records  
234 Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal  
235 history record from the Central Criminal Records Exchange or Federal Bureau of Investigation. The  
236 information provided to the home care organization or hospice shall not be disseminated except as  
237 provided in this section.

238 In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State  
239 Police may assess a fee for responding to requests required by this section. The provisions of this  
240 section shall be enforced by the Commissioner.

241 The provisions of this section shall not apply to volunteers who work with the permission or under  
242 the supervision of a person who has received a clearance pursuant to this section.

243 C. A person who complies in good faith with the provisions of this section shall not be liable for

244 any civil damages for any act or omission in the performance of duties under this section unless the act  
245 or omission was the result of gross negligence or willful misconduct.

246 D. A licensed home care organization or hospice shall notify and provide all students a copy of the  
247 provisions of this section prior to or upon enrollment in a certified nurse aide program operated by such  
248 home care organization or hospice.

249 *E. Any business or organization specified by this section must bear the costs of obtaining a national  
250 background check, but may recoup such costs from the applicant.*

251 *EF.* Any business or organization specified by this section that knowingly and willfully fails to  
252 conduct a background check as required herein shall be assessed a civil penalty of not more than \$500  
253 by the Commissioner and is subject to the provisions set forth in §§ 32.1-162.6 and 32.1-162.13.

254 § 63.2-1720. (Contingent expiration date - see note) Employment for compensation of persons or use  
255 of volunteers convicted of certain offenses prohibited; background check required; penalty.

256 A. An assisted living facility, adult day care center or child welfare agency licensed or registered in  
257 accordance with the provisions of this chapter, or family day homes approved by family day systems,  
258 shall not hire for compensated employment persons who have an offense as defined in § 63.2-1719.  
259 Such employees shall undergo background checks pursuant to subsection D. In the case of child welfare  
260 agencies, the provisions of this section shall apply to employees who are involved in the day-to-day  
261 operations of such agency or who are alone with, in control of, or supervising one or more children.

262 B. A licensed assisted living facility or adult day care center may hire an applicant convicted of one  
263 misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the  
264 conviction.

265 C. Notwithstanding the provisions of subsection A, a child day center may hire for compensated  
266 employment persons who have been convicted of not more than one misdemeanor offense under  
267 § 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense  
268 while employed in a child day center or the object of the offense was a minor.

269 D. Background checks pursuant to this section require:

270 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the  
271 subject of any pending criminal charges within or outside the Commonwealth and, in the case of child  
272 welfare agencies, whether or not the person has been the subject of a founded complaint of child abuse  
273 or neglect within or outside the Commonwealth;

274 2. A criminal history record check through the Central Criminal Records Exchange pursuant to  
275 § 19.2-389; and

276 3. In the case of child welfare agencies, a search of the central registry maintained pursuant to  
277 § 63.2-1515 for any founded complaint of child abuse and neglect.

278 E. Any person desiring to work as a compensated employee at a licensed assisted living facility,  
279 licensed adult day care center, a licensed or registered child welfare agency, or a family day home  
280 approved by a family day system shall provide the hiring or approving facility, center or agency with a  
281 sworn statement or affirmation pursuant to subdivision D 1. Any person making a materially false  
282 statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 shall be  
283 guilty of a Class 1 misdemeanor.

284 F. A licensed assisted living facility, licensed adult day care center, a licensed or registered child  
285 welfare agency, or a family day home approved by a family day system shall obtain for any  
286 compensated employees within 30 days of employment (i) an original criminal record clearance with  
287 respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from  
288 the Central Criminal Records Exchange and (ii) in the case of licensed or registered child welfare  
289 agencies or family day homes approved by family day systems, a copy of the information from the  
290 central registry. If an applicant is denied employment because of information from the central registry or  
291 convictions appearing on his criminal history record, the assisted living facility, adult day care center or  
292 child welfare agency shall provide a copy of the information obtained from the central registry or the  
293 Central Criminal Records Exchange or both to the applicant.

294 G. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a  
295 licensed or registered child welfare agency or a family day home approved by a family day system. Any  
296 person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn  
297 statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any  
298 volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from  
299 the central registry and (ii) an original criminal record clearance with respect to offenses specified in  
300 § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any  
301 person making a materially false statement regarding the sworn statement or affirmation provided  
302 pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor. If a volunteer is denied service  
303 because of information from the central registry or convictions appearing on his criminal history record,  
304 such child welfare agency shall provide a copy of the information obtained from the central registry or

305 the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall  
306 apply only to volunteers who will be alone with any child in the performance of their duties and shall  
307 not apply to a parent-volunteer of a child attending a licensed or registered child welfare agency, or a  
308 family day home approved by a family day system, whether or not such parent-volunteer will be alone  
309 with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay,  
310 a group of children that includes the parent-volunteer's own child in a program that operates no more  
311 than four hours per day, provided that the parent-volunteer works under the direct supervision of a  
312 person who has received a clearance pursuant to this section.

313 H. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day  
314 care center without the permission or under the supervision of a person who has received a clearance  
315 pursuant to this section.

316 I. Further dissemination of the background check information is prohibited other than to the  
317 Commissioner's representative or a federal or state authority or court as may be required to comply with  
318 an express requirement of law for such further dissemination.

319 J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of  
320 this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living  
321 facility.

322 K. The provisions of this section shall not apply to any children's residential facility licensed  
323 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
324 contained in § 63.2-1726.

325 L. A person who complies in good faith with the provisions of this section shall not be liable for any  
326 civil damages for any act or omission in the performance of duties under this section unless the act or  
327 omission was the result of gross negligence or willful misconduct.

328 *M. Any business or organization specified by this section must bear the costs of obtaining a national  
329 background check, but may recoup such costs from the applicant.*

330 *N. Any business or organization specified by this section that knowingly and willfully fails to conduct  
331 a background check as required herein shall be assessed a civil penalty of not more than \$500 by the  
332 Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2, and 63.2-1722.*

333 § 63.2-1720. (Contingent effective date - see Editor's notes) Employment for compensation of persons  
334 or use of volunteers convicted of certain offenses prohibited; background check required; penalty.

335 A. An assisted living facility, adult day care center, or child welfare agency licensed or registered in  
336 accordance with the provisions of this chapter, or family day homes approved by family day systems,  
337 shall not hire for compensated employment persons who have an offense as defined in § 63.2-1719.  
338 Such employees, whose employment commences on or after July 1, 2007, shall undergo background  
339 checks pursuant to subsection D. In the case of child welfare agencies, the provisions of this section  
340 shall apply to employees who are involved in the day-to-day operations of such agency or who are  
341 alone with, in control of, or supervising one or more children.

342 B. A licensed assisted living facility or adult day care center may hire an applicant convicted of one  
343 misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the  
344 conviction.

345 C. Notwithstanding the provisions of subsection A, a child day center may hire for compensated  
346 employment persons who have been convicted of not more than one misdemeanor offense under  
347 § 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense  
348 while employed in a child day center or the object of the offense was a minor.

349 D. Background checks pursuant to this section require:

350 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the  
351 subject of any pending criminal charges within or outside the Commonwealth and, in the case of child  
352 welfare agencies, whether or not the person has been the subject of a founded complaint of child abuse  
353 or neglect within or outside the Commonwealth;

354 2. The applicant to submit to fingerprinting and to provide personal descriptive information to be  
355 forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the  
356 Federal Bureau of Investigation for the purpose of obtaining a national criminal history record  
357 information check regarding such applicant. The Central Criminal Records Exchange, upon receipt of an  
358 applicant's record or notification that no record exists, shall make a report to an assisted living facility,  
359 adult day care center, or child welfare agency that the applicant meets the criteria or does not meet the  
360 criteria for employment based on whether or not the applicant has ever been convicted of any offense  
361 set forth in § 63.2-1719 or an equivalent offense in another state. The Central Criminal Records  
362 Exchange shall not disclose information to an assisted living facility, adult day care center, or child  
363 welfare agency regarding charges or convictions of any crimes. If any applicant is denied employment  
364 because of information appearing on the criminal history record and the applicant disputes the  
365 information upon which the denial was based, the Central Criminal Records Exchange shall, upon  
366 request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the

367 Central Criminal Records Exchange or Federal Bureau of Investigation. The information provided to the  
 368 assisted living facility, adult day care center, or child welfare agency shall not be disseminated except as  
 369 provided in this section.

370 In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State  
 371 Police may assess a fee for responding to requests required by this section; and

372 3. In the case of child welfare agencies, a search of the central registry maintained pursuant to  
 373 § 63.2-1515 for any founded complaint of child abuse and neglect.

374 E. Any person desiring to work as a compensated employee at a licensed assisted living facility,  
 375 licensed adult day care center, a licensed or registered child welfare agency, or a family day home  
 376 approved by a family day system shall provide the hiring or approving facility, center or agency with a  
 377 sworn statement or affirmation pursuant to subdivision D 1. Any person making a materially false  
 378 statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 shall be  
 379 guilty of a Class 1 misdemeanor.

380 F. A licensed assisted living facility, licensed adult day care center, a licensed or registered child  
 381 welfare agency, or a family day home approved by a family day system shall, for any compensated  
 382 employee within 30 days of employment, require the employee to submit to a national criminal record  
 383 background check as provided in subdivision D 2, and in addition, in the case of licensed or registered  
 384 child welfare agencies or family day homes approved by family day systems, a copy of the information  
 385 from the central registry and shall require the compensated employee to submit to a national criminal  
 386 record background check as provided in subdivision D 2. If an applicant is denied employment because  
 387 of information from the central registry, the assisted living facility, adult day care center or child welfare  
 388 agency shall provide a copy of the information obtained from the central registry.

389 G. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a  
 390 licensed or registered child welfare agency or a family day home approved by a family day system. Any  
 391 person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn  
 392 statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any  
 393 volunteers, within 30 days of commencement of volunteer service, a copy of the information from the  
 394 central registry and shall require the volunteer to submit to a national criminal record background check  
 395 as provided in subdivision D 2. Any person making a materially false statement regarding the sworn  
 396 statement or affirmation provided pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor.  
 397 If a volunteer is denied service because of information from the central registry, such child welfare  
 398 agency shall provide a copy of the information obtained from the central registry to the volunteer. The  
 399 provisions of this subsection shall apply only to volunteers who will be alone with any child in the  
 400 performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed or  
 401 registered child welfare agency, or a family day home approved by a family day system, whether or not  
 402 such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer  
 403 is someone supervising, without pay, a group of children that includes the parent-volunteer's own child  
 404 in a program that operates no more than four hours per day, provided that the parent-volunteer works  
 405 under the direct supervision of a person who has received a clearance pursuant to this section.

406 H. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day  
 407 care center without the permission or under the supervision of a person who has received a clearance  
 408 pursuant to this section.

409 I. Further dissemination of the background check information is prohibited other than to the  
 410 Commissioner's representative or a federal or state authority or court as may be required to comply with  
 411 an express requirement of law for such further dissemination.

412 J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of  
 413 this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living  
 414 facility.

415 K. The provisions of this section shall not apply to any children's residential facility licensed  
 416 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
 417 contained in § 63.2-1726.

418 L. A person who complies in good faith with the provisions of this section shall not be liable for any  
 419 civil damages for any act or omission in the performance of duties under this section unless the act or  
 420 omission was the result of gross negligence or willful misconduct.

421 *M. Any business or organization specified by this section must bear the costs of obtaining a national  
 422 background check, but may recoup such costs from the applicant.*

423 *MN.* Any business or organization specified by this section that knowingly and willfully fails to  
 424 conduct a background check as required herein shall be assessed a civil penalty of not more than \$500  
 425 by the Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2 and  
 426 63.2-1722.

427 § 63.2-1721. (Contingent expiration date - see note) Background check upon application for licensure

428 or registration as child welfare agency; background check of foster or adoptive parents approved by  
429 child-placing agencies and family day homes approved by family day systems; penalty.

430 A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii)  
431 agents at the time of application who are or will be involved in the day-to-day operations of the child  
432 welfare agency or who are or will be alone with, in control of, or supervising one or more of the  
433 children; and (iii) any other adult living in the home of an applicant for licensure or registration as a  
434 family day home shall undergo a background check. Upon application for licensure as an assisted living  
435 facility, all applicants shall undergo a background check. In addition, foster or adoptive parents  
436 requesting approval by child-placing agencies and operators of family day homes requesting approval by  
437 family day systems, and any other adult residing in the family day home or existing employee or  
438 volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to  
439 their approval.

440 B. Background checks pursuant to this section require:

441 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the  
442 subject of any pending criminal charges within or outside the Commonwealth and whether or not the  
443 person has been the subject of a founded complaint of child abuse or neglect within or outside the  
444 Commonwealth;

445 2. A criminal history record check through the Central Criminal Records Exchange pursuant to  
446 § 19.2-389; and

447 3. In the case of child welfare agencies or adoptive or foster parents, a search of the central registry  
448 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

449 C. The character and reputation investigation pursuant to § 63.2-1702 shall include background  
450 checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the  
451 background check information required in subsection B to the Commissioner's representative prior to  
452 issuance of a license, registration or approval. The applicant shall provide an original criminal record  
453 clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from  
454 the Central Criminal Records Exchange. Any person making a materially false statement regarding the  
455 sworn statement or affirmation provided pursuant to subdivision B 1 shall be guilty of a Class 1  
456 misdemeanor. If any person specified in subsection A required to have a background check has any  
457 offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner  
458 pursuant to § 63.2-1723 or is not subject to an exception in subsections E, F, or G (i) the Commissioner  
459 shall not issue a license or registration to a child welfare agency; (ii) the Commissioner shall not issue a  
460 license to an assisted living facility; (iii) a child-placing agency shall not approve an adoptive or foster  
461 home; or (iv) a family day system shall not approve a family day home.

462 D. No person specified in subsection A shall be involved in the day-to-day operations of the child  
463 welfare agency or shall be alone with, in control of, or supervising one or more of the children without  
464 first having completed background checks pursuant to subsection B.

465 E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
466 may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor  
467 as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have  
468 elapsed following the conviction.

469 F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
470 may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a  
471 dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by  
472 the Governor, provided 25 years have elapsed following the conviction.

473 G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
474 may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who  
475 has had his civil rights restored by the Governor, provided 10 years have elapsed following the  
476 conviction.

477 H. If an applicant is denied licensure, registration or approval because of information from the  
478 central registry or convictions appearing on his criminal history record, the Commissioner shall provide  
479 a copy of the information obtained from the central registry or the Central Criminal Records Exchange  
480 or both to the applicant.

481 I. Further dissemination of the background check information is prohibited other than to the  
482 Commissioner's representative or a federal or state authority or court as may be required to comply with  
483 an express requirement of law for such further dissemination.

484 J. The provisions of this section referring to a sworn statement or affirmation and to prohibitions on  
485 the issuance of a license for any offense shall not apply to any children's residential facility licensed  
486 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
487 contained in § 63.2-1726.

488 K. *Any business or organization specified by this section must bear the costs of obtaining a national*  
489 *background check, but may recoup such costs from the applicant.*



490 *L. Any business or organization specified by this section that knowingly and willfully fails to conduct*  
 491 *a background check as required herein shall be assessed a civil penalty of not more than \$500 by the*  
 492 *Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2, and 63.2-1722.*  
 493 *Any business or organization that commits such a violation of this section after having been previously*  
 494 *found in violation is guilty of a Class 3 misdemeanor and may be denied a license or registration to*  
 495 *operate such business or organization in the Commonwealth.*

496 § 63.2-1721. (Contingent effective date - see Editor's notes) Background check upon application for  
 497 licensure or registration as child welfare agency; background check of foster or adoptive parents  
 498 approved by child-placing agencies and family day homes approved by family day systems; penalty.

499 A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii)  
 500 agents at the time of application who are or will be involved in the day-to-day operations of the child  
 501 welfare agency or who are or will be alone with, in control of, or supervising one or more of the  
 502 children; and (iii) any other adult living in the home of an applicant for licensure or registration as a  
 503 family day home shall undergo a background check. Upon application for licensure as an assisted living  
 504 facility, all applicants shall undergo a background check. In addition, foster or adoptive parents  
 505 requesting approval by child-placing agencies and operators of family day homes requesting approval by  
 506 family day systems, and any other adult residing in the family day home or existing employee or  
 507 volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to  
 508 their approval.

509 B. Background checks pursuant to this section require:

510 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the  
 511 subject of any pending criminal charges within or outside the Commonwealth and whether or not the  
 512 person has been the subject of a founded complaint of child abuse or neglect within or outside the  
 513 Commonwealth;

514 2. The applicant to submit to fingerprinting and to provide personal descriptive information to be  
 515 forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the  
 516 Federal Bureau of Investigation for the purpose of obtaining a national criminal history record  
 517 information check regarding such applicant. The Central Criminal Records Exchange, upon receipt of an  
 518 applicant's record or notification that no record exists, shall make a report to the child welfare agency  
 519 that the applicant meets the criteria or does not meet the criteria for licensure, registration or approval  
 520 based on whether or not the applicant has ever been convicted of any offense set forth in § 63.2-1719 or  
 521 an equivalent offense in another state. The Central Criminal Records Exchange shall not disclose  
 522 information to a child welfare agency regarding charges or convictions of any crimes. If any applicant is  
 523 denied licensure, registration or approval because of information appearing on the criminal history record  
 524 and the applicant disputes the information upon which the denial was based, the Central Criminal  
 525 Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the  
 526 criminal history record from the Central Criminal Records Exchange or the Federal Bureau of  
 527 Investigation. The information provided to the child welfare agency shall not be disseminated except as  
 528 provided in this section.

529 In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State  
 530 Police may assess a fee for responding to requests required by this section; and

531 3. In the case of child welfare agencies or adoptive or foster parents, a search of the central registry  
 532 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

533 C. The character and reputation investigation pursuant to § 63.2-1702 shall include background  
 534 checks pursuant to subsection B of persons specified in subsection A. Any person making a materially  
 535 false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 shall  
 536 be guilty of a Class 1 misdemeanor. If any person specified in subsection A required to have a  
 537 background check has any offense as defined in § 63.2-1719, and such person has not been granted a  
 538 waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsections E,  
 539 F, or G (i) the Commissioner shall not issue a license or registration to a child welfare agency; (ii) the  
 540 Commissioner shall not issue a license to an assisted living facility; (iii) a child-placing agency shall not  
 541 approve an adoptive or foster home; or (iv) a family day system shall not approve a family day home.

542 D. No person specified in subsection A shall be involved in the day-to-day operations of the child  
 543 welfare agency or shall be alone with, in control of, or supervising one or more of the children without  
 544 first having completed background checks pursuant to subsection B.

545 E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
 546 may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor  
 547 as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have  
 548 elapsed following the conviction.

549 F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
 550 may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a

551 dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by  
552 the Governor, provided 25 years have elapsed following the conviction.

553 G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency  
554 may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who  
555 has had his civil rights restored by the Governor, provided 10 years have elapsed following the  
556 conviction.

557 H. If an applicant is denied licensure, registration or approval because of information from the  
558 central registry, the Commissioner shall provide a copy of the information obtained from the central  
559 registry to the applicant.

560 I. Further dissemination of the background check information is prohibited other than to the  
561 Commissioner's representative or a federal or state authority or court as may be required to comply with  
562 an express requirement of law for such further dissemination.

563 J. The provisions of this section referring to a sworn statement or affirmation and to prohibitions on  
564 the issuance of a license for any offense shall not apply to any children's residential facility licensed  
565 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
566 contained in § 63.2-1726.

567 *K. Any business or organization specified by this section must bear the costs of obtaining a national  
568 background check, but may recoup such costs from the applicant.*

569 ~~K~~L. Any business or organization specified by this section that knowingly and willfully fails to  
570 conduct a background check as required herein shall be assessed a civil penalty of not more than \$500  
571 by the Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2 and  
572 63.2-1722. Any business or organization that commits such a violation of this section after having been  
573 previously found in violation is guilty of a Class 3 misdemeanor and may be denied a license or  
574 registration to operate such business or organization in the Commonwealth.

575 § 63.2-1724. (Contingent expiration date - see Editor's note) Records check by unlicensed child day  
576 center; penalty.

577 Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a  
578 prospective employee or volunteer or any other person who is expected to be alone with one or more  
579 children enrolled in the child day center to obtain within 30 days of employment or commencement of  
580 volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded  
581 complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of  
582 § 19.2-389 and shall refuse employment or service to any person who has any offense defined in  
583 § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who  
584 is expected to be alone with one or more children in the child day center to provide a sworn statement  
585 or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded  
586 complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal  
587 charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth.  
588 The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her  
589 own child. For purposes of this section, convictions shall include prior adult convictions and juvenile  
590 convictions or adjudications of delinquency based on a crime that would have been a felony if  
591 committed by an adult within or outside the Commonwealth. Any person making a materially false  
592 statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied  
593 employment or service because of information from the central registry or convictions appearing on his  
594 criminal history record, the child day center shall provide a copy of the information obtained from the  
595 central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of  
596 the information provided to the facility is prohibited.

597 The provisions of this section referring to volunteers shall apply only to volunteers who will be alone  
598 with any child in the performance of their duties and shall not apply to a parent-volunteer of a child  
599 attending the child day center whether or not such parent-volunteer will be alone with any child in the  
600 performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children  
601 which includes the parent-volunteer's own child, in a program which operates no more than four hours  
602 per day, where the parent-volunteer works under the direct supervision of a person who has received a  
603 clearance pursuant to this section.

604 *Any business or organization specified by this section must bear the costs of obtaining a national  
605 background check, but may recoup such costs from the applicant.*

606 *Any business or organization specified by this section that knowingly and willfully fails to conduct a  
607 background check as required herein shall be assessed a civil penalty of not more than \$500 by the  
608 Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2, and 63.2-1722.  
609 Any business or organization that commits such a violation of this section after having been previously  
610 found in violation is guilty of a Class 3 misdemeanor and may be denied a license or registration to  
611 operate such business or organization in the Commonwealth.*

612 § 63.2-1724. (Contingent effective date - see Editor's notes) Records check by unlicensed child day

613 center; penalty.

614 Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a  
 615 prospective employee or volunteer or any other person who is expected to be alone with one or more  
 616 children enrolled in the child day center to obtain within 30 days of employment or commencement of  
 617 volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded  
 618 complaint of child abuse or neglect and a national criminal records check as provided in subdivision B 2  
 619 of § 63.2-1721 and shall refuse employment or service to any person who has any offense defined in  
 620 § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who  
 621 is expected to be alone with one or more children in the child day center to provide a sworn statement  
 622 or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded  
 623 complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal  
 624 charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth.  
 625 The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her  
 626 own child. For purposes of this section, convictions shall include prior adult convictions and juvenile  
 627 convictions or adjudications of delinquency based on a crime that would have been a felony if  
 628 committed by an adult within or outside the Commonwealth. Any person making a materially false  
 629 statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied  
 630 employment or service because of information from the central registry, the child day center shall  
 631 provide a copy of the information obtained from the central registry to the applicant. Further  
 632 dissemination of the information provided to the facility is prohibited.

633 The provisions of this section referring to volunteers shall apply only to volunteers who will be alone  
 634 with any child in the performance of their duties and shall not apply to a parent-volunteer of a child  
 635 attending the child day center whether or not such parent-volunteer will be alone with any child in the  
 636 performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children  
 637 that includes the parent-volunteer's own child, in a program that operates no more than four hours per  
 638 day, where the parent-volunteer works under the direct supervision of a person who has received a  
 639 clearance pursuant to this section.

640 *Any business or organization specified by this section must bear the costs of obtaining a national*  
 641 *background check, but may recoup such costs from the applicant.*

642 Any business or organization specified by this section that knowingly and willfully fails to conduct a  
 643 background check as required herein shall be assessed a civil penalty of not more than \$500 by the  
 644 Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2 and 63.2-1722.  
 645 Any business or organization that commits such a violation of this section after having been previously  
 646 found in violation is guilty of a Class 3 misdemeanor and may be required to forfeit its license to  
 647 operate such business or organization in the Commonwealth.

648 § 63.2-1725. (Contingent expiration date - see note) Records checks of child day centers or family  
 649 day homes receiving federal, state or local child care funds; penalty.

650 Whenever any child day center or family day home that has not met the requirements of  
 651 §§ 63.2-1720, 63.2-1721 and 63.2-1724 applies to enter into a contract with a local department to  
 652 provide child care services to clients of the local department, the local department shall require a  
 653 criminal records check pursuant to subdivision A 11 of § 19.2-389, as well as a search of the central  
 654 registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation, of the  
 655 applicant; any employee; prospective employee; volunteers; agents involved in the day-to-day operation;  
 656 all agents who are alone with, in control of, or supervising one or more of the children; and any other  
 657 adult living in a family day home. The applicant shall provide the local department with copies of these  
 658 records checks. The child day center or family day home shall not be permitted to enter into a contract  
 659 with a local department for child care services when an applicant; any employee; a prospective  
 660 employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of,  
 661 or supervising one or more children; or any other adult living in a family day home has any offense as  
 662 defined in § 63.2-1719. The child day center or family day home shall also require the above individuals  
 663 to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) the  
 664 subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any  
 665 pending criminal charges within the Commonwealth or any equivalent offense outside the  
 666 Commonwealth. Any person making a materially false statement regarding any such offense shall be  
 667 guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information  
 668 from the central registry or convictions appearing on his criminal history record, the child day center or  
 669 family day program shall provide a copy of such information obtained from the central registry or  
 670 Central Criminal Records Exchange or both to the person. Further dissemination of the information  
 671 provided to the facility, beyond dissemination to the local department, is prohibited.

672 *Any business or organization specified by this section must bear the costs of obtaining a national*  
 673 *background check, but may recoup such costs from the applicant.*

674 *Any business or organization specified by this section that knowingly and willfully fails to conduct a*  
675 *background check as required herein shall be assessed a civil penalty of not more than \$500 by the*  
676 *Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2 and 63.2-1722.*  
677 *Any business or organization that commits such a violation of this section after having been previously*  
678 *found in violation is guilty of a Class 3 misdemeanor and may be required to forfeit its license to*  
679 *operate such business or organization in the Commonwealth.*

680 § 63.2-1725. (Contingent effective date - see notes) Records checks of child day centers or family  
681 day homes receiving federal, state or local child care funds; penalty.

682 Whenever any child day center or family day home that has not met the requirements of  
683 §§ 63.2-1720, 63.2-1721 and 63.2-1724 applies to enter into a contract with a local department to  
684 provide child care services to clients of the local department, the local department shall require a  
685 national criminal records check pursuant to subdivision B 2 of § 63.2-1721, as well as a search of the  
686 central registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation, of the  
687 applicant; any employee; prospective employee; volunteers; agents involved in the day-to-day operation;  
688 all agents who are alone with, in control of, or supervising one or more of the children; and any other  
689 adult living in a family day home. The applicant shall provide the local department with copies of these  
690 records checks. The child day center or family day home shall not be permitted to enter into a contract  
691 with a local department for child care services when an applicant; any employee; a prospective  
692 employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of,  
693 or supervising one or more children; or any other adult living in a family day home has any offense as  
694 defined in § 63.2-1719. The child day center or family day home shall also require the above individuals  
695 to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) the  
696 subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any  
697 pending criminal charges within the Commonwealth or any equivalent offense outside the  
698 Commonwealth. Any person making a materially false statement regarding any such offense shall be  
699 guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information  
700 from the central registry the child day center or family day program shall provide a copy of such  
701 information obtained from the central registry to the person. Further dissemination of the information  
702 provided to the facility, beyond dissemination to the local department, is prohibited.

703 *Any business or organization specified by this section must bear the costs of obtaining a national*  
704 *background check, but may recoup such costs from the applicant.*

705 *Any business or organization specified by this section that knowingly and willfully fails to conduct a*  
706 *background check as required herein shall be assessed a civil penalty of not more than \$500 by the*  
707 *Commissioner and is subject to the provisions set forth in §§ 63.2-1709.1, 63.2-1709.2 and 63.2-1722.*  
708 *Any business or organization that commits such a violation of this section after having been previously*  
709 *found in violation is guilty of a Class 3 misdemeanor and may be required to forfeit its license to*  
710 *operate such business or organization in the Commonwealth.*