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HOUSE BILL NO. 237

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 18.2-308.2:2, 19.2-387.1, 19.2-389, and 19.2-389.1 of the Code of Virginia, relating to criminal history record information checks upon handgun purchases; maintenance and dissemination of registry information.

Patrons—Cosgrove and Morefield

Referred to Committee for Courts of Justice

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

**1. That §§ 18.2-308.2:2, 19.2-387.1, 19.2-389, and 19.2-389.1 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a ~~firearm~~ handgun as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of ~~firearms~~ by ~~category~~handguns intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such ~~firearm~~ handgun to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of ~~firearms~~ by ~~category~~handguns intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 of this subsection to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense, and other documentation of residence. Except where the photo-identification was issued by the United States Department of Defense, the other documentation of residence shall show an address identical to that shown on the photo-identification form, such as evidence of currently paid personal property tax or real estate tax, or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; other current identification allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and ATF Ruling 2001-5; or other documentation of residence determined to be acceptable by the Department of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders assigning the purchaser to a duty post in Virginia, including the Pentagon, shall be the only other required documentation of residence. For the purposes of this section and establishment of residency for ~~firearm~~ handgun purchase, residency shall be deemed to be the permanent duty post of a member of the armed forces. When the photo-identification presented to a dealer by the prospective purchaser is a driver's license or other photo-identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo-identification issued by the Department of Motor Vehicles, sell or otherwise transfer a ~~firearm~~ handgun to the prospective purchaser until 30 days

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59 after the date of issue of an original or duplicate driver's license unless the prospective purchaser also  
60 presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original  
61 date of issue of the driver's license was more than 30 days prior to the attempted purchase.

62 In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any  
63 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent  
64 residence. To establish citizenship or lawful admission for a permanent residence for purposes of  
65 purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth  
66 certificate or a certificate of birth abroad issued by the United States State Department, a certificate of  
67 citizenship or a certificate of naturalization issued by the United States Citizenship and Immigration  
68 Services, an unexpired U.S. passport, a United States citizen identification card, a current voter  
69 registration card, a current selective service registration card, or an immigrant visa or other  
70 documentation of status as a person lawfully admitted for permanent residence issued by the United  
71 States Citizenship and Immigration Services.

72 Upon receipt of the request for a criminal history record information check, the State Police shall (1)  
73 review its criminal history record information to determine if the buyer or transferee is prohibited from  
74 possessing or transporting a firearm by state or federal law, (2) inform the dealer if its record indicates  
75 that the buyer or transferee is so prohibited, and (3) provide the dealer with a unique reference number  
76 for that inquiry.

77 2. The State Police shall provide its response to the requesting dealer during the dealer's request, or  
78 by return call without delay. If the criminal history record information check indicates the prospective  
79 purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity  
80 and committed to the custody of the Commissioner of Behavioral Health and Developmental Services,  
81 *or is otherwise prohibited from possessing or transporting a handgun pursuant to state or federal law,*  
82 the State Police shall have until the end of the dealer's next business day to advise the dealer if its  
83 records indicate the buyer or transferee is prohibited from possessing or transporting a ~~firearm~~ handgun  
84 by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has  
85 fulfilled the requirements of subdivision 1 of this subsection may immediately complete the sale or  
86 transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case  
87 of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be  
88 advised immediately of the reason for such delay and be given an estimate of the length of such delay.  
89 After such notification, the State Police shall, as soon as possible but in no event later than the end of  
90 the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee  
91 is prohibited from possessing or transporting a ~~firearm~~ handgun by state or federal law. A dealer who  
92 fulfills the requirements of subdivision 1 of this subsection and is told by the State Police that a  
93 response will not be available by the end of the dealer's next business day may immediately complete  
94 the sale or transfer and shall not be deemed in violation of this section with respect to such sale or  
95 transfer.

96 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer  
97 than 30 days, except for multiple handgun transactions for which records shall be maintained for 12  
98 months, from any dealer's request for a criminal history record information check pertaining to a buyer  
99 or transferee who is not found to be prohibited from possessing and transporting a ~~firearm~~ handgun  
100 under state or federal law. However, the log on requests made may be maintained for a period of 12  
101 months, and such log shall consist of the name of the purchaser, the dealer identification number, the  
102 unique approval number and the transaction date.

103 4. On the last day of the week following the sale or transfer of any ~~firearm~~ handgun, the dealer shall  
104 mail or deliver the written consent form required by subsection A to the Department of State Police.  
105 The State Police shall immediately initiate a search of all available criminal history record information  
106 to determine if the purchaser is prohibited from possessing or transporting a ~~firearm~~ handgun under state  
107 or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited  
108 from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer  
109 in the jurisdiction where the sale or transfer occurred and the dealer without delay.

110 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by  
111 persons who are citizens of the United States or persons lawfully admitted for permanent residence but  
112 residents of other states under the terms of subsections A and B upon furnishing the dealer with proof  
113 of citizenship or status as a person lawfully admitted for permanent residence and one  
114 photo-identification form issued by a governmental agency of the person's state of residence and one  
115 other form of identification determined to be acceptable by the Department of Criminal Justice Services.

116 6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include  
117 December 25.

118 C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the  
119 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of  
120 subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the

Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of the Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a ~~firearm~~ *handgun* under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30 days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

"Antique firearm" means:

1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade;

3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any combination thereof; or

4. Any curio or relic as defined in this subsection.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Curios or relics" means firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits firearms to be curios or relics of museum interest; and

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the

182 immigration laws, such status not having changed.

183 H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,  
184 confidentiality and security of all records and data provided by the Department of State Police pursuant  
185 to this section.

186 I. The provisions of this section shall not apply to (i) transactions between persons who are licensed  
187 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)  
188 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth  
189 or any local government; or (iii) antique firearms, curios or relics.

190 J. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a  
191 resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another  
192 state, in which case the laws and regulations of that state and the United States governing the purchase,  
193 trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)  
194 check shall be performed prior to such purchase, trade or transfer of firearms.

195 J1. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal  
196 history record information check is required pursuant to this section, except that a fee of \$5 shall be  
197 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the  
198 Department of State Police by the last day of the month following the sale for deposit in a special fund  
199 for use by the State Police to offset the cost of conducting criminal history record information checks  
200 under the provisions of this section.

201 K. Any person willfully and intentionally making a materially false statement on the consent form  
202 required in subsection B or C or on such firearm transaction records as may be required by federal law,  
203 shall be guilty of a Class 5 felony.

204 L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades  
205 or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

206 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or  
207 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and  
208 intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not  
209 apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the  
210 performance of his official duties, or other person under his direct supervision.

211 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
212 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
213 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
214 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
215 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 5 felony. However, if the  
216 violation of this subsection involves such a transfer of more than one firearm, the person shall be  
217 sentenced to a mandatory minimum term of imprisonment of five years.

218 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the  
219 Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of  
220 a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

221 O. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating  
222 whether the driver's license is an original, duplicate or renewed driver's license.

223 P. Except as provided in subdivisions 1, 2, and 3 of this subsection, it shall be unlawful for any  
224 person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day  
225 period. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

226 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an  
227 enhanced background check, as described herein, by special application to the Department of State  
228 Police listing the number and type of handguns to be purchased and transferred for lawful business or  
229 personal use, in a collector series, for collections, as a bulk purchase from estate sales and for similar  
230 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
231 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
232 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
233 report required by the Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State  
234 Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for  
235 the implementation of an application process for purchases of handguns above the limit.

236 Upon being satisfied that these requirements have been met, the Department of State Police shall  
237 forthwith issue to the applicant a nontransferable certificate, which shall be valid for seven days from  
238 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to  
239 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection  
240 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
241 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
242 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
243 Department of State Police, issue certificates forthwith pursuant to this subsection. Applications and

certificates issued under this subsection shall be maintained as records as provided in subdivision B 3. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subsection and all records provided for in subdivision B 3.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. State and local correctional facilities;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms as herein defined;
- f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, the description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;
- g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;
- h. A person who holds a valid Virginia permit to carry a concealed handgun;
- i. A person who purchases a handgun in a private sale. For purposes of this subdivision, a private sale means purchase from a person who makes occasional sales, exchanges or purchases of firearms for the enhancement of a personal collection of curios or relics as herein defined, or who sells all or part of such collection of curios and relics; or
- j. A law-enforcement officer. For purposes of this subdivision, a law-enforcement officer means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth.

3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement.

§ 19.2-387.1. Protective Order Registry; maintenance; access.

A. The Department of State Police shall keep and maintain a computerized Protective Order Registry. The purpose of the Registry shall be to assist the efforts of law-enforcement agencies to protect their communities and their citizens. The Department of State Police shall make Registry information available, upon request, to criminal justice agencies, including local law-enforcement agencies *and the Attorney General of the United States to make a determination of eligibility to possess or purchase a firearm as provided in §§ 18.2-308.1:4 and 18.2-308.2:2*, through the Virginia Criminal Information Network (VCIN). Registry information provided under this section shall be used only for the purposes of the administration of criminal justice.

B. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

- 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, *including the Attorney General of the United States to make a determination of eligibility to possess or purchase a firearm as provided in §§ 18.2-308.1:1, 18.2-308.1:5, 18.2-308.2, and*

305 18.2-308.2:2, except that information concerning the arrest of an individual may not be disseminated to  
306 a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
307 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
308 pending;

309 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
310 services required for the administration of criminal justice pursuant to that agreement which shall  
311 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
312 security and confidentiality of the data;

313 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
314 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
315 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
316 security of the data;

317 5. Agencies of state or federal government that are authorized by state or federal statute or executive  
318 order of the President of the United States or Governor to conduct investigations determining  
319 employment suitability or eligibility for security clearances allowing access to classified information;

320 6. Individuals and agencies where authorized by court order or court rule;

321 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
322 owned, operated or controlled by any political subdivision, and any public service corporation that  
323 operates a public transit system owned by a local government for the conduct of investigations of  
324 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
325 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
326 conviction record would be compatible with the nature of the employment, permit, or license under  
327 consideration;

328 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.)  
329 and their contractors, for the conduct of investigations of individuals who have been offered a position  
330 of employment whenever, in the interest of public welfare or safety and as authorized in the  
331 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
332 with a conviction record would be compatible with the nature of the employment under consideration;

333 8. Public or private agencies when authorized or required by federal or state law or interstate  
334 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
335 adult members of that individual's household, with whom the agency is considering placing a child or  
336 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
337 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
338 the data shall not be further disseminated to any party other than a federal or state authority or court as  
339 may be required to comply with an express requirement of law;

340 9. To the extent permitted by federal law or regulation, public service companies as defined in  
341 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
342 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
343 with the nature of the employment under consideration;

344 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
345 travel, including but not limited to, issuing visas and passports;

346 11. A person requesting a copy of his own criminal history record information as defined in  
347 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
348 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
349 America; (ii) a volunteer fire company or volunteer rescue squad; (iii) the Volunteer Emergency  
350 Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of  
351 Compeer; or (vi) any board member or any individual who has been offered membership on the board  
352 of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

353 12. Administrators and board presidents of and applicants for licensure or registration as a child  
354 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
355 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
356 volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes  
357 approved by family day-care systems, and foster and adoptive parent applicants of private child-placing  
358 agencies, pursuant to §§ 63.2-1719 through 63.2-1721, subject to the restriction that the data shall not be  
359 further disseminated by the facility or agency to any party other than the data subject, the Commissioner  
360 of Social Services' representative or a federal or state authority or court as may be required to comply  
361 with an express requirement of law for such further dissemination;

362 13. The school boards of the Commonwealth for the purpose of screening individuals who are  
363 offered or who accept public school employment and those current school board employees for whom a  
364 report of arrest has been made pursuant to § 19.2-83.1;

365 14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery  
366 Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of

investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a public institution of higher education pursuant to § 23-9.2:10, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of the Department of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct consumer care position has been convicted of a crime that affects their fitness to have responsibility for the safety and well-being of persons with mental illness, mental retardation and substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal

428 history record information to the agencies shall be limited to those positions generally described as  
429 directly responsible for the health, safety and welfare of the general populace or protection of critical  
430 infrastructures;

431 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
432 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually  
433 Violent Predators Act (§ 37.2-900 et seq.);

434 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
435 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
436 companies, for the conduct of investigations of applications for employment or for access to facilities,  
437 by contractors, leased laborers, and other visitors;

438 35. Any employer of individuals whose employment requires that they enter the homes of others, for  
439 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

440 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
441 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
442 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
443 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
444 than a federal or state authority or court as may be required to comply with an express requirement of  
445 law for such further dissemination, subject to limitations set out in subsection G;

446 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
447 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
448 or have accepted a position related to the provision of transportation services to enrollees in the  
449 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
450 program administered by the Department of Medical Assistance Services;

451 38. The State Corporation Commission for the purpose of investigating individuals who are members,  
452 senior officers, directors, and principals of an applicant for licensure as a mortgage lender or mortgage  
453 broker, or a licensed mortgage lender or mortgage broker for the purpose of investigating individuals  
454 applying for a position of employment in which the individual may have access to or process personal  
455 identifying or financial information from a member of the public, pursuant to Chapter 16 (§ 6.2-1600 et  
456 seq.) of Title 6.2. Notwithstanding any other provision of law, if an application for a mortgage lender or  
457 mortgage broker license is denied based in whole or in part on information obtained from the Central  
458 Criminal Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his  
459 designee may disclose such information to the applicant or its designee;

460 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
461 individuals for initial licensure pursuant to § 54.1-2106.1;

462 40. The Department of Rehabilitative Services and the Department for the Blind and Vision Impaired  
463 for the purpose of evaluating an individual's fitness for various types of employment and for the purpose  
464 of delivering comprehensive vocational rehabilitation services pursuant to Chapter 5 (§ 51.5-15 et seq.)  
465 of Title 51.5 that will assist the individual in obtaining employment;

466 41. Bail bondsmen, in accordance with the provisions of § 19.2-120; and

467 42. Other entities as otherwise provided by law.

468 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
469 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
470 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
471 designated in the order on whom a report has been made under the provisions of this chapter.

472 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
473 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
474 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
475 copy of conviction data covering the person named in the request to the person making the request;  
476 however, such person on whom the data is being obtained shall consent in writing, under oath, to the  
477 making of such request. A person receiving a copy of his own conviction data may utilize or further  
478 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data  
479 subject, the person making the request shall be furnished at his cost a certification to that effect.

480 B. Use of criminal history record information disseminated to noncriminal justice agencies under this  
481 section shall be limited to the purposes for which it was given and may not be disseminated further.

482 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal  
483 history record information for employment or licensing inquiries except as provided by law.

484 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records  
485 Exchange prior to dissemination of any criminal history record information on offenses required to be  
486 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is  
487 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases  
488 where time is of the essence and the normal response time of the Exchange would exceed the necessary  
489 time period. A criminal justice agency to whom a request has been made for the dissemination of

criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

*I. For purposes of subdivision A 2, criminal history record information shall include records sent to Central Criminal Records Exchange pursuant to §§ 37.2-819 and 37.2-1014.*

§ 19.2-389.1. Dissemination of juvenile record information.

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to ~~make~~ the *State Police or the Attorney General of the United States for the purposes of making a determination as provided in §§ 18.2-308.2 and 18.2-308.2:2* of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Department of Forensic Science to verify its authority to maintain the juvenile's sample in the DNA data bank pursuant to § 16.1-299.1; (viii) to the Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.); (ix) to the Virginia Criminal Sentencing Commission for research purposes; (x) to members of a threat assessment team established by a public institution of higher education pursuant to § 23-9.2:10, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; and (xi) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof.