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SENATE JOINT RESOLUTION NO. 311

Offered January 9, 2013

Prefiled January 8, 2013

Establishing a joint subcommittee to study laws related to criminal history background checks and barrier crimes. Report.

Patron—Edwards

Referred to Committee on Rules

WHEREAS, barrier crimes are statutorily-established crimes, conviction for which disqualifies an individual from eligibility for various types of employment, to volunteer or provide certain services, or to establish or operate certain types of regulated business; and

WHEREAS, Virginia's criminal history background check and barrier crimes laws are extensive and require a wide range of individuals seeking employment, to volunteer or provide services, or to establish or operate certain types of regulated businesses to undergo criminal history background checks as a condition of eligibility; and

WHEREAS, the Commonwealth's laws governing criminal history background checks and barrier crimes vary, sometimes significantly, with regard to categories of individuals required to undergo a background check; the background check process; the types of crimes that disqualify an individual from eligibility for employment or to volunteer, provide services, or establish or operate a business; exceptions to criminal history background check and barrier crime requirements; and opportunities to overcome restrictions and prohibitions related to barrier crimes; and

WHEREAS, in recent years a number of legislative commissions and committees and other entities have studied the Commonwealth's requirements for criminal history background checks and barrier crimes, including, most recently, a study by the Department of Social Services undertaken at the request of the Chairman of the Senate Committee for Courts of Justice during the 2012 interim; and

WHEREAS, many of these studies, including the study completed by the Department of Social Services, have recommended further consideration of the Commonwealth's requirements related to criminal history background checks and barrier crimes, including review of the specific crimes included as barrier crimes and exceptions to these requirements; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study laws related to criminal history background checks and barrier crimes. The joint subcommittee shall consist of 11 members that include six legislative members, two nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: two members of the Senate to be appointed by the Senate Committee on Rules; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one citizen-at-large to be appointed by the Senate Committee on Rules; one citizen-at-large to be appointed by the Speaker of the House of Delegates; and the Commissioners of the Departments of Behavioral Health and Developmental Services, Health, and Social Services, or his designee, to serve ex officio with nonvoting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall study the Commonwealth's laws related to criminal history background checks and barrier crimes, including the categories of individuals required to have criminal history background checks, the process for criminal history background checks, the specific crimes identified as barrier crimes, and existing barrier crimes exceptions, and shall develop recommendations related to (i) whether the list of barrier crimes and exceptions to the list of barrier crimes should be consolidated and a single comprehensive list of barrier crimes should be included in the Code of Virginia; (ii) whether specific crimes should be added to or removed from the list of barrier crimes; (iii) changes to the categories of individuals required to have criminal history background checks, including whether such categories should be expanded or limited; and (iv) all other changes to existing exceptions to criminal history background check and barrier crimes requirements.

Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2013 interim, and the direct costs of

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59 this study shall not exceed \$13,680 without approval as set out in this resolution. Approval for
60 unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the
61 joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is
62 agreed to, written authorization of both Clerks shall be required.

63 No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members
64 or a majority of the House members appointed to the joint subcommittee (i) vote against the
65 recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the
66 joint subcommittee.

67 The joint subcommittee shall complete its meetings by November 30, 2013, and the chairman shall
68 submit to the Division of Legislative Automated Systems an executive summary of its findings and
69 recommendations no later than the first day of the 2014 Regular Session of the General Assembly. The
70 executive summary shall state whether the joint subcommittee intends to submit to the General
71 Assembly and the Governor a report of its findings and recommendations. The executive summary and
72 report shall be submitted as provided in the procedures of the Division of Legislative Automated
73 Systems for the processing of legislative documents and reports and shall be posted on the General
74 Assembly's website.

75 Implementation of this resolution is subject to subsequent approval and certification by the Joint
76 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or
77 delay the period for the conduct of the study, or authorize additional meetings during the 2013 interim.