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HOUSE BILL NO. 412

Offered January 8, 2014

Prefiled January 3, 2014

A *BILL to amend and reenact §§ 19.2-389, 19.2-392.02, 63.2-901.1, 63.2-1515, 63.2-1702, and 63.2-1719 through 63.2-1726 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 63.2-1704.1, 63.2-1719.1, 63.2-1720.1, 63.2-1721.1, and 63.2-1726.1, relating to child welfare agencies; criminal history background checks.*

Patrons—Anderson, Filler-Corn, James, McClellan, Peace and Robinson

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, 19.2-392.02, 63.2-901.1, 63.2-1515, 63.2-1702, and 63.2-1719 through 63.2-1726 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 63.2-1704.1, 63.2-1719.1, 63.2-1720.1, 63.2-1721.1, and 63.2-1726.1 as follows:

§ 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, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

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

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

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

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

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

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

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the

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59 adult members of that individual's household, with whom the agency is considering placing a child or
60 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
61 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
62 the data shall not be further disseminated to any party other than a federal or state authority or court as
63 may be required to comply with an express requirement of law;

64 9. To the extent permitted by federal law or regulation, public service companies as defined in
65 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
66 personal contact with the public or when past criminal conduct of an applicant would be incompatible
67 with the nature of the employment under consideration;

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

70 11. A person requesting a copy of his own criminal history record information as defined in
71 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
72 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
73 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
74 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
75 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
76 Solvers or Crime Line program as defined in § 15.2-1713.1;

77 12. Administrators and board presidents of and applicants for licensure or registration as a child
78 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
79 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
80 volunteers at such facilities, caretakers, and other adults living in family day care homes or homes
81 approved by family day care systems, and foster and adoptive parent applicants of private child-placing
82 agencies, pursuant to §§ 63.2-1719, ~~63.2-1720~~ 63.2-1720.1, and ~~63.2-1721~~ 63.2-1721.1, subject to the
83 restriction that the data shall not be further disseminated by the facility or agency to any party other
84 than the data subject, the Commissioner of Social Services' representative or a federal or state authority
85 or court as may be required to comply with an express requirement of law for such further
86 dissemination;

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

90 14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery
91 Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
92 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

97 16. ~~Licensed homes for adults, licensed district homes for adults, assisted living facilities~~ and
98 licensed adult day care centers for the conduct of investigations of applicants for compensated
99 employment in ~~licensed homes for adults pursuant to § 63.2-1720, in licensed district homes for adults~~
100 ~~pursuant to § 63.1-189.1, and in licensed assisted living facilities or licensed adult day care centers~~
101 ~~pursuant to § 63.2-1720~~, subject to the limitations set out in subsection F;

102 17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in
103 § 4.1-103.1;

104 18. The State Board of Elections and authorized officers and employees thereof and general registrars
105 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
106 voter registration, limited to any record of felony convictions;

107 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
108 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
109 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

120 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 or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

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 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 care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or 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 and holders of 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 history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;

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

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

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

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

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

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an

182 application is denied based in whole or in part on information obtained from the Central Criminal
183 Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee
184 may disclose such information to the applicant or its designee;

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

187 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
188 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
189 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
190 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

192 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
193 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

194 43. The Department of Social Services and directors of local departments of social services for the
195 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
196 or a local department of social services for the provision of child care services for which child care
197 subsidy payments may be provided; and

198 44. Other entities as otherwise provided by law.

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

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

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

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

215 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
216 Exchange prior to dissemination of any criminal history record information on offenses required to be
217 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
218 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
219 where time is of the essence and the normal response time of the Exchange would exceed the necessary
220 time period. A criminal justice agency to whom a request has been made for the dissemination of
221 criminal history record information that is required to be reported to the Central Criminal Records
222 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
223 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
224 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

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

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

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

242 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**
243 **employees or volunteers providing care to children, or the elderly and disabled.**

A. For purposes of this section:

"Barrier crime" means any offense set forth in § 63.2-1719 or 63.2-1726.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity, and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care ~~or~~, (ii) *is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care*, or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children, or the elderly or disabled, whether governmental, private, for profit, nonprofit or voluntary, except organizations exempt pursuant to subdivision A 10 of § 63.2-1715.

~~B. Notwithstanding §§ 63.2-1719 to 63.2-1721 and 63.2-1724, a~~ A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted at any local or state law-enforcement agency and provided the fingerprints to the qualified entity; and

2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children, or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local record-keeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children, or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

§ 63.2-901.1. Criminal history and central registry check for placements of children.

A. Each local board and licensed child-placing agency shall obtain, ~~in accordance with regulations adopted by the Board,~~ criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry ~~of~~ *in accordance with the provisions of § 63.2-1721 and regulations adopted by the Board* for any individual with whom the local board or licensed child-placing agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care placement, unless the birth parent has revoked an entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians pursuant to § 63.2-900. ~~The local board or licensed child-placing agency shall also obtain such background checks on all, and any adult household members residing in the home of the individual with whom the child is to be placed pursuant to subsection B.~~ Such state criminal records or registry search shall be at no cost to the individual. The local board or licensed child-placing agency shall pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for responding to requests required by this section.

B. Background checks pursuant to this section require the following:

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

2. That the individual submit to fingerprinting and provide personal descriptive information to be forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The local board or licensed child-placing agency shall inform the individual that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final decision is made of the individual's fitness to have responsibility for the safety and well-being of children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an individual's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the local board or licensed child-placing agency whether the individual meets the criteria for having responsibility for the safety and well-being of children based on whether or not the individual has ever been convicted of or is the subject of pending charges set forth in § 63.2-1719 or an equivalent set forth in another state. Copies of any information received by a local board or licensed child-placing agency pursuant to this section shall be available to the state agency that regulates or operates such a child-placing agency but shall not be disseminated further; and

3. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any other state pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in which a prospective parent or other adult in the home has resided in the preceding five years.

C. In emergency circumstances, each local board may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section. Within three days of placing a child, the local board shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information, ~~pursuant to subsection B.~~ The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a criminal history record check when requested.

D. C. Any individual with whom the local board is considering placing a child on an emergency basis shall submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam

Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or neglect. The search of the central registry must occur prior to emergency placement. Such central registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall provide a written statement of affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not approve individuals with a founded complaint of child abuse as foster or adoptive parents.

D. The child-placing agency shall not approve a foster or adoptive home if any individual has a record of an offense defined in § 63.2-1719 or a founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42 U.S.C.S. 16901 et seq. A child-placing agency may approve as a foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57, not involving the abuse, neglect, or moral turpitude of a minor, provided 10 years have elapsed following the conviction.

E. A local board or child-placing agency may approve as a kinship foster care parent an applicant convicted of the following offenses, provided that 10 years have elapsed from the date of the conviction and the local board or child-placing agency makes a specific finding that approving the kinship foster care placement would not adversely affect the safety and well-being of the child: (i) a felony conviction for possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, but not including a felony conviction for possession of drugs with the intent to distribute; (ii) a misdemeanor conviction for arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) an equivalent offense in another state.

§ 63.2-1515. Central registry; disclosure of information.

The central registry shall contain such information as shall be prescribed by Board regulation; however, when the founded case of abuse or neglect does not name the parents or guardians of the child as the abuser or neglecter, and the abuse or neglect occurred in a licensed or unlicensed child day center, a licensed, registered or approved family day home, a private or public school, or a children's residential facility, the child's name shall not be entered on the registry without consultation with and permission of the parents or guardians. If a child's name currently appears on the registry without consultation with and permission of the parents or guardians for a founded case of abuse and neglect that does not name the parents or guardians of the child as the abuser or neglecter, such parents or guardians may have the child's name removed by written request to the Department. The information contained in the central registry shall not be open to inspection by the public. However, appropriate disclosure may be made in accordance with Board regulations.

The Department shall respond to requests for a search of the central registry made by (i) local departments and (ii) local school boards regarding applicants for employment, pursuant to § 22.1-296.4, in cases where there is no match within the central registry within 10 business days of receipt of such requests. In cases where there is a match within the central registry regarding applicants for employment, the Department shall respond to requests made by local departments and local school boards within 30 business days of receipt of such requests. The response may be by first-class mail or facsimile transmission.

Any central registry check of a person who has applied to be a volunteer with a (a) Virginia affiliate of Big Brothers/Big Sisters of America, (b) Virginia affiliate of Compeer, (c) Virginia affiliate of Childhelp USA/rs, (d) volunteer fire company or volunteer rescue squad, ~~or~~ (e) with a court-appointed special advocate program pursuant to § 9.1-153, or (f) child welfare agency shall be conducted at no charge.

§ 63.2-1702. Investigation on receipt of application.

Upon receipt of the application the Commissioner shall cause an investigation to be made of the activities, services, and facilities of the applicant and of his character and reputation or, if the applicant is an association, partnership, limited liability company, or corporation, the character and reputation of its officers and agents, and upon receipt of the initial application, an investigation of the applicant's financial responsibility. The financial records of an applicant shall not be subject to inspection if the applicant submits an operating budget and at least one credit reference. In the case of child welfare agencies and assisted living facilities, the character and reputation investigation upon application shall include background checks pursuant to §§ 63.2-1721 and 63.2-1721.1; however, a children's residential facility shall comply with the background check requirements contained in § 63.2-1726. Records that contain confidential proprietary information furnished to the Department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5.

§ 63.2-1704.1. Voluntary registry of child-care providers; background checks.

A. The Department shall establish a voluntary registry of child-care providers, which shall include information about child-care providers who are not required to be licensed pursuant to this chapter and who are not voluntarily registered in accordance with the provisions of § 63.2-1704 who have (i) complied with the background check requirement set forth in subsection B and been found to be eligible

428 to have responsibility for the safety and well-being of children or (ii) provided evidence satisfactory to
429 the Department of a background check registry clearance certification issued pursuant to § 63.2-1719.1.

430 B. A child-care provider who wishes to be included in the registry established pursuant to subsection
431 A shall:

432 1. Provide a sworn written statement or affirmation disclosing whether he has ever been convicted of
433 or is the subject of pending charges for any offense within or outside the Commonwealth and whether
434 the person has been the subject of a founded complaint of child abuse or neglect within or outside the
435 Commonwealth;

436 2. Submit to fingerprinting and provide personal descriptive information described in subsection B of
437 § 19.2-392.02; and

438 3. Authorize the child welfare agency or family day home approved by a family day system to obtain
439 a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation
440 of child abuse or neglect undertaken on him.

441 The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2
442 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of
443 Investigation for the purpose of obtaining national criminal history record information regarding such
444 applicant. Upon receipt of an applicant's record or notification that no record exists, the Central
445 Criminal Records Exchange shall forward the information to the Department. In cases in which the
446 record forwarded to the Department is lacking disposition data, the Department shall conduct research
447 in whatever state and local recordkeeping systems are available in order to obtain complete data.
448 Information about any investigation of child abuse or neglect undertaken on the applicant shall be
449 obtained from the central registry maintained in accordance with § 63.2-1515.

450 C. No person who has an offense as defined in § 63.2-1719 or who has been the subject of a
451 founded complaint of child abuse or neglect shall be eligible for inclusion on the registry established
452 pursuant to this section.

453 D. Any person making a materially false statement regarding the sworn statement or affirmation
454 provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

455 E. If an applicant is denied inclusion on the registry because of information from the central registry
456 or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the
457 information obtained from the central registry or the Central Criminal Records Exchange or both to the
458 applicant.

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

462 G. The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of
463 the background check conducted by the Department of State Police and the Federal Bureau of
464 Investigation, whichever is greater, for background checks pursuant to this section.

465 **§ 63.2-1719. Definitions.**

466 As used in this subtitle:

467 "Barrier crime" means a conviction of a felony violation of a protective order as set out in
468 § 16.1-253.2, murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title
469 18.2, malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A or B of
470 § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set
471 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
472 as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, threats of death or bodily injury as
473 set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, a felony violation of a protective order as
474 set out in § 18.2-60.4, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title
475 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
476 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
477 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
478 in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving
479 children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children
480 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
481 to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in
482 § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of
483 pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in
484 § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5
485 (§ 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
486 set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in
487 § 53.1-203, or an equivalent offense in another state. In the case of child welfare agencies and foster and
488 adoptive homes approved by child-placing agencies, "barrier crime" shall also include convictions of
489 burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 and any felony violation

relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an equivalent offense in another state.

"Offense" means a barrier crime and, in the case of child welfare agencies, *family day homes approved by family day systems*, and foster and adoptive homes approved by child-placing agencies, (i) a conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction, (ii) *a conviction of any offense requiring registration with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901*, and ~~(iii)~~ (iii) a founded complaint of child abuse or neglect within or outside the Commonwealth. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

§ 63.2-1719.1. Portable background check registry; fund created.

A. The Department shall establish by January 1, 2015, a portable background check registry, which shall include background check information for all individuals required to undergo background checks in accordance with this chapter, including information obtained from the Central Criminal Records Exchange in accordance with this chapter and information obtained from the central registry maintained pursuant to § 63.2-1515, where appropriate. Individuals who are found to meet the requirements for issuance of a license, registration, or approval or for employment for compensation or to serve as a volunteer shall be issued a background check registry clearance certification. No individual who has an offense as defined in § 63.2-1719 or, in the case of an individual for whom a search of the central registry is required, who has been the subject of a founded complaint of child abuse or neglect shall be issued a background check registry clearance certification.

B. The Department shall establish a fee to be paid by each applicant for a license, registration, or approval or for employment or to serve as a volunteer for whom a background check is required pursuant to this chapter. All moneys collected pursuant to this section shall be paid into the Portable Background Check Registry Fund established pursuant to subsection C.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Portable Background Check Registry Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to subsection B shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of developing and administering the portable background check registry created in accordance with subsection A. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

§ 63.2-1720. Assisted living facilities and adult day care centers; employment for compensation of persons convicted of certain offenses prohibited; background check required; penalty.

~~A. An~~ No assisted living facility, or adult day care center or child welfare agency licensed or registered in accordance with the provisions of this chapter, or *family day homes approved by family day systems*, shall not hire for compensated employment persons who have an offense as defined in § 63.2-1719. ~~Such employees~~ All applicants for employment shall provide evidence satisfactory to the Department of a background check registry clearance certification issued pursuant to § 63.2-1719.1 or undergo background checks pursuant to subsection D C. In the case of child welfare agencies, the provisions of this section shall apply to employees who are involved in the day-to-day operations of such agency or who are alone with, in control of, or supervising one or more children.

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

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

~~D. Background checks pursuant to this section~~ subsection A require:

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

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

3. In the case of child welfare agencies, a search of the central registry maintained pursuant to

551 § 63.2-1515 for any founded complaint of child abuse and neglect.

552 E. Any person desiring to work as a compensated employee at a licensed assisted living facility,
553 licensed adult day care center, a licensed or registered child welfare agency, or a family day home
554 approved by a family day system shall provide the hiring or approving facility, center or agency with a
555 sworn statement or affirmation pursuant to subdivision D 1. D. Any person making a materially false
556 statement regarding the sworn statement or affirmation provided pursuant to subdivision D C 1 shall be
557 is guilty of a Class 1 misdemeanor.

558 F. E. A licensed assisted living facility, or licensed adult day care center, a licensed or registered
559 child welfare agency, or a family day home approved by a family day system shall *shall* obtain for any
560 compensated employees within 30 days of employment (i) an original criminal record clearance with
561 respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from
562 the Central Criminal Records Exchange and (ii) in the case of licensed or registered child welfare
563 agencies or family day homes approved by family day systems, a copy of the information from the
564 central registry for any compensated employees within 30 days of employment. If an applicant is denied
565 employment because of information from the central registry or convictions appearing on his criminal
566 history record, the assisted living facility, or adult day care center or child welfare agency shall provide
567 a copy of the information obtained from the central registry or the Central Criminal Records Exchange
568 or both to the applicant.

569 G. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a
570 licensed or registered child welfare agency or a family day home approved by a family day system. Any
571 person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn
572 statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any
573 volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from
574 the central registry and (ii) an original criminal record clearance with respect to offenses specified in
575 § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any
576 person making a materially false statement regarding the sworn statement or affirmation provided
577 pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor. If a volunteer is denied service
578 because of information from the central registry or convictions appearing on his criminal history record,
579 such child welfare agency shall provide a copy of the information obtained from the central registry or
580 the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall
581 apply only to volunteers who will be alone with any child in the performance of their duties and shall
582 not apply to a parent-volunteer of a child attending a licensed or registered child welfare agency, or a
583 family day home approved by a family day system, whether or not such parent-volunteer will be alone
584 with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay,
585 a group of children that includes the parent-volunteer's own child in a program that operates no more
586 than four hours per day, provided that the parent-volunteer works under the direct supervision of a
587 person who has received a clearance pursuant to this section.

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

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

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

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

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

603 § 63.2-1720.1. *Child welfare agencies and certain family day homes; employment for compensation*
604 *or use as volunteers of persons convicted or found to have committed certain offenses prohibited;*
605 *national background check required.*

606 A. No child welfare agency licensed or registered in accordance with the provisions of this chapter
607 or family day home approved by a family day system shall hire for compensated employment or permit
608 to serve as a volunteer in a position that is involved in the day-to-day operations of the agency or in
609 which the employee or volunteer will be alone with, in control of, or supervising children any person
610 who has an offense as defined in § 63.2-1719. All applicants for employment or to serve as a volunteer
611 shall provide evidence satisfactory to the Department of a background check registry clearance
612 certification issued pursuant to § 63.2-1719.1 or undergo background checks in accordance with

subsection B.

B. Any applicant required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subsection B of § 19.2-392.02; and

3. Authorize the child welfare agency or family day home approved by a family day system to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child welfare agency or family day home approved by a family day system whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child welfare agency or family day home approved by a family day system.

Information obtained from a search of the central registry maintained pursuant to § 63.2-1515 shall be obtained prior to permitting an applicant to work or serve as a volunteer alone with children.

C. The child welfare agency or family day home approved by a family day system shall inform every applicant for compensated employment or to serve as a volunteer required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. The provisions of this section related to volunteers shall apply only to volunteers who will be alone with a child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed or registered child welfare agency or family day home approved by a family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. For the purposes of this subsection, "parent-volunteer" means a person who is supervising, without pay, a group of children that includes his own child in a program that operates no more than four hours per day, provided that he works under the direct supervision of a person for whom a background check has been performed pursuant to this section.

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

G. 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.

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

I. The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of the background check conducted by the Department of State Police and the Federal Bureau of Investigation, whichever is greater, for background checks pursuant to this section.

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

§ 63.2-1721. Background check upon application for licensure as an assisted living facility; penalty.

A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child welfare agency or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for licensure or registration as a

674 family day home shall undergo a background check. Upon application for licensure as an assisted living
675 facility, all applicants shall *provide evidence satisfactory to the Department of a background check*
676 *registry clearance certification issued pursuant to § 63.2-1719.1* or undergo a background check. ~~In~~
677 addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family
678 day homes requesting approval by family day systems, and any other adult residing in the family day
679 home or existing employee or volunteer of the family day home, shall undergo background checks
680 pursuant to subsection B prior to their approval *in accordance with subsection B*.

681 B. Background checks pursuant to this section *subsection A* require:

682 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the
683 subject of any pending criminal charges within or outside the Commonwealth and ~~whether or not the~~
684 person has been the subject of a founded complaint of child abuse or neglect within or outside the
685 Commonwealth; and

686 2. A criminal history record check through the Central Criminal Records Exchange pursuant to
687 § 19.2-389; and

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

690 C. The character and reputation investigation pursuant to § 63.2-1702 shall include background
691 checks pursuant to subsection B of persons specified in subsection A. The *Every* applicant *for licensure*
692 *as an assisted living facility* shall submit the background check information required in subsection B to
693 the Commissioner's representative prior to issuance of a license, ~~registration or approval~~. The applicant
694 shall provide an original criminal record clearance with respect to offenses specified in § 63.2-1719 or
695 an original criminal history record from the Central Criminal Records Exchange. Any person making a
696 materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision
697 B 1 shall be *is* guilty of a Class 1 misdemeanor. If any person specified in subsection A *required to*
698 *have a background check the applicant* has any offense as defined in § 63.2-1719, and such person has
699 not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an
700 exception in subsections E, F, or G (i) the Commissioner shall not issue a license or registration to a
701 child welfare agency; (ii) the Commissioner shall not issue a license to an assisted living facility; (iii) a
702 child-placing agency shall not approve an adoptive or foster home; or (iv) a family day system shall not
703 approve a family day home.

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

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

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

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

719 H. *D.* If an applicant is denied licensure, ~~registration or approval~~ because of information from the
720 central registry or convictions appearing on his criminal history record, the Commissioner shall provide
721 a copy of the information obtained from the central registry or the Central Criminal Records Exchange
722 or both to the applicant.

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

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

730 § 63.2-1721.1. *Background check upon application for licensure or registration as child welfare*
731 *agency; background check of foster or adoptive parents approved by child-placing agencies and*
732 *family day homes approved by family day systems; penalty.*

733 A. *Every* (i) applicant for licensure or registration as a child welfare agency; (ii) agent of an
734 applicant for licensure or registration as a child welfare agency who is or will be involved in the
735 day-to-day operations of the child welfare agency or who is or will be alone with, in control of, or

736 supervising one or more of the children; (iii) adult living in the home of an applicant for licensure or
 737 registration as a family day home; (iv) operator of a family day home requesting approval by family
 738 day systems; (v) existing employee or volunteer of an operator of a family day home requesting
 739 approval by a family day system; (vi) adult residing a home operated as a family day home for which
 740 the operator is seeking approval by a family day system; (vii) foster or adoptive parent requesting
 741 approval by child-placing agencies; and (viii) adult household member residing in the home of foster or
 742 adoptive parents requesting approval by child-placing agencies shall provide evidence satisfactory to the
 743 Department of a background check registry clearance certification issued pursuant to § 63.2-1719.1 or
 744 undergo a background check in accordance with subsection B prior to issuance of a license or
 745 registration as a child welfare agency or approval as a family day home by a family day system or
 746 foster or adoptive parent by a child-placing agency.

747 B. Every person required to undergo a background check pursuant to subsection A shall:

748 1. Provide a sworn written statement or affirmation disclosing whether he has ever been convicted of
 749 or is the subject of pending charges for any offense within or outside the Commonwealth and whether
 750 he has been the subject of a founded complaint of child abuse or neglect within or outside the
 751 Commonwealth;

752 2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2
 753 of § 19.2-392.02; and

754 3. Authorize the Department, in the case of an individual described in subdivision (i), (ii), or (iii) of
 755 subsection A; the family day system, in the case of individuals described in subdivision (iv), (v), or (vi)
 756 of subsection A; or the child-placing agency, in the case of individuals described in subdivision (vii) or
 757 (viii) of subsection A, to obtain a copy of information from the central registry maintained pursuant to
 758 § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. In the case of
 759 individuals described in subdivision (vii) or (viii), the search shall also include a search of the child
 760 abuse and neglect registry maintained by any other state pursuant to the Adam Walsh Child Protection
 761 and Safety Act of 2006, P.L. 109-248, in which a prospective parent or other adult in the home has
 762 resided in the preceding five years.

763 Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be
 764 forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for
 765 the purpose of obtaining national criminal history record information regarding the individual. Upon
 766 receipt of the individual's record or notification that no record exists, the Central Criminal Records
 767 Exchange shall forward the information to the Department. For individuals described in subdivision (iv),
 768 (v), or (vi), the Department shall report to the family day system whether the applicant is eligible to
 769 have responsibility for the safety and well-being of children. For individuals described in subdivision
 770 (vii) or (viii), the Department shall report to the child-placing agency whether the applicant is eligible
 771 to have responsibility for the safety and well-being of children. In cases in which the record forwarded
 772 to the Department is lacking disposition data, the Department shall conduct research in whatever state
 773 and local recordkeeping systems are available in order to obtain complete data.

774 C. If any person specified in subsection A required to have a background check has an offense as
 775 defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant
 776 to § 63.2-1723, (i) no license or registration as a child welfare agency shall be granted if the individual
 777 is described in subdivision (i), (ii), or (iii) of subsection A; (ii) no family day home shall be approved
 778 by a family day system if the individual is described in subdivision (iv), (v), or (vi) of subsection A; and
 779 no child-placing agency shall approve the individual as a foster or adoptive parent if the individual is
 780 described in subdivision (vii) or (viii) of subsection A.

781 D. Information from a search of the central registry maintained pursuant to § 63.2-1515, authorized
 782 in accordance with subdivision 3, shall be obtained prior to issuance or denial of a license or
 783 registration as a child-placing agency, approval of a family day home by a family day system, or
 784 approval as a foster or adoptive parent by a child-placing agency.

785 E. No person specified in subsection A shall be involved in the day-to-day operations of the child
 786 welfare agency or shall be alone with, in control of, or supervising one or more of the children without
 787 first having completed any required background check pursuant to subsection B.

788 F. Any person making a materially false statement regarding the sworn statement or affirmation
 789 provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

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

794 H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency
 795 may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a
 796 dwelling home or other structure with intent to commit larceny who has had his civil rights restored by

797 *the Governor, provided 25 years have elapsed following the conviction.*

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

802 *J. If an applicant is denied licensure, registration, or approval because of information from the*
803 *central registry or convictions appearing on his criminal history record, the Commissioner shall provide*
804 *a copy of the information obtained from the central registry or the Central Criminal Records Exchange*
805 *or both to the applicant.*

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

809 *L. The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of*
810 *the background check conducted by the Department of State Police and the Federal Bureau of*
811 *Investigation, whichever is greater, for background checks pursuant to this section.*

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

816 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain**
817 **background check.**

818 *A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare*
819 *agency, an assisted living facility or adult day care center, a child-placing agency may revoke the*
820 *approval of a foster home, and a family day system may revoke the approval of a family day home if*
821 *the assisted living facility, adult day care center, child welfare agency, foster home or approved family*
822 *day home has knowledge that a person specified in §§ 63.2-1720 and 63.2-1720.1, 63.2-1721 or*
823 *63.2-1721.1 required to have a background check has an offense as defined in § 63.2-1719, and such*
824 *person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to*
825 *the exceptions in subsection B of § 63.2-1720 and subsection E G or H of § 63.2-1721, and*
826 *the facility, center or agency refuses to separate such person from employment or service.*

827 *B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1720.1, 63.2-1721, and*
828 *63.2-1721.1 shall be grounds for denial or revocation of a license, registration or approval. No violation*
829 *shall occur if the assisted living facility, adult day care center or child welfare agency has applied for*
830 *the background check timely and it has not been obtained due to administrative delay. The provisions of*
831 *this section shall be enforced by the Department.*

832 **§ 63.2-1723. Child welfare agencies; criminal conviction and waiver.**

833 *A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is*
834 *disqualified because of a criminal conviction or a criminal conviction in the background check of any*
835 *other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720,*
836 *63.2-1720.1, 63.2-1721, 63.2-1721.1, and 63.2-1724, may apply in writing for a waiver from the*
837 *Commissioner. The Commissioner may grant a waiver if the Commissioner determines that (i) the*
838 *person is of good moral character and reputation and (ii) the waiver would not adversely affect the*
839 *safety and well-being of children in the person's care. The Commissioner shall not grant a waiver to any*
840 *person who has been convicted of a barrier crime as defined in § 63.2-1719. However, the*
841 *Commissioner may grant a waiver to a family day home regulated by the Department if any other adult*
842 *living in the home of the applicant or provider has been convicted of not more than one misdemeanor*
843 *offense under § 18.2-57 or § 18.2-57.2, provided (a) five years have elapsed following the conviction*
844 *and (b) the Department has conducted a home study that includes, but is not limited to, (1) an*
845 *assessment of the safety of children placed in the home and (2) a determination that the offender is now*
846 *a person of good moral character and reputation. The waiver shall not be granted if the adult living in*
847 *the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor*
848 *offense under both §§ 18.2-57 and 18.2-57.2. Any waiver granted under this section shall be available*
849 *for inspection by the public. The child welfare agency shall notify in writing every parent and guardian*
850 *of the children in its care of any waiver granted for its operators, employees or volunteers.*

851 *B. The Board shall adopt regulations to implement the provisions of this section.*

852 **§ 63.2-1724. Records check by unlicensed child day center; penalty.**

853 *Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a*
854 *prospective employee or volunteer or any other person who is expected to be alone with one or more*
855 *children enrolled in the child day center to provide evidence satisfactory to the Department of a*
856 *background check registry clearance certification issued pursuant to § 63.2-1719.1 or to obtain within*
857 *30 days of employment or commencement of volunteer service, a search of the central registry*
858 *maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal*

history records check as provided in subdivision A 41 of § 19.2-389 and search of the central registry maintained pursuant to § 63.2-1515 in accordance with subsection B of § 63.2-1720.1. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect; or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

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

The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of the background check conducted by the Department of State Police and the Federal Bureau of Investigation, whichever is greater, for background checks pursuant to this section.

§ 63.2-1725. Records checks of child day centers or family day homes receiving federal, state or local child care funds; penalty.

Whenever any child day center or family day home that has not met the requirements of §§ 63.2-1720, 63.2-1720.1, 63.2-1721, 63.2-1721.1, and 63.2-1724 applies to enter into a contract with the Department or a local department to provide child care services to clients of the Department or local department, the Department or local department shall require evidence satisfactory to the Department of a background check registry clearance certification issued pursuant to § 63.2-1719.1 or a criminal records check pursuant to subdivision A 43 of § 19.2-389, as well as a *and* search of the central registry maintained pursuant to § 63.2-1515; ~~on any child abuse or neglect investigation, or in accordance with subsection B of § 63.2-1720.1~~ for the applicant; any employee; prospective employee; volunteers; agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a family day home. ~~The applicant shall provide the Department or local department with copies of these records checks.~~ The child day center or family day home shall not be permitted to enter into a contract with the Department or a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home has any offense as defined in § 63.2-1719. ~~The child day center or family day home shall also require the above individuals to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth.~~ Any person making a materially false statement regarding any such offense ~~shall be~~ *is* guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the Department, agents of the Department, or the local department, is prohibited. *The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of the background check conducted by the Department of State Police and the Federal Bureau of Investigation, whichever is greater, for background checks pursuant to this section.*

§ 63.2-1726. Background check required; children's residential facilities.

A. As a condition of employment, volunteering, or providing services on a regular basis, every children's residential facility that is regulated or operated by the Departments of Social Services, Education, Military Affairs, or Behavioral Health and Developmental Services shall require any

920 individual who (i) accepts a position of employment at such a facility who was not employed by that
921 facility prior to July 1, 2007, (ii) volunteers for such a facility on a regular basis and will be alone with
922 a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1,
923 2007, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and
924 will be alone with a juvenile in the performance of his duties who did not provide such services prior to
925 July 1, 2007, to submit to fingerprinting and to provide personal descriptive information, to be
926 forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the
927 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
928 regarding such applicant. The children's residential facility shall inform the applicant that he is entitled
929 to obtain a copy of any background check report and to challenge the accuracy and completeness of any
930 such report and obtain a prompt resolution before a final determination is made of the applicant's
931 eligibility to have responsibility for the safety and well-being of children. The applicant shall provide the
932 children's residential facility with a written statement or affirmation disclosing whether he has ever been
933 convicted of or is the subject of pending charges for any offense within or outside the Commonwealth.
934 The results of the criminal history background check must be received prior to permitting an applicant
935 to work with children.

936 The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no
937 record exists, shall forward it to the state agency which operates or regulates the children's residential
938 facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's
939 record lacking disposition data, conduct research in whatever state and local recordkeeping systems are
940 available in order to obtain complete data. The state agency shall report to the children's facility whether
941 the applicant is eligible to have responsibility for the safety and well-being of children. Except as
942 otherwise provided in subsection B, no children's residential facility regulated or operated by the
943 Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social
944 Services shall hire for compensated employment or allow to volunteer or provide contractual services
945 persons who have been (a) convicted of or are the subject of pending charges for the following crimes:
946 a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in
947 Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in
948 § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set
949 out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
950 Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; extortion by threat as set
951 out in § 18.2-59; threat as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a
952 felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7
953 (§ 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
954 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony
955 violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of
956 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
957 set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed off
958 shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in
959 § 18.2-355; crimes against nature involving children as set out in § 18.2-361; taking indecent liberties
960 with children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in
961 § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314;
962 obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in
963 § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in §
964 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a
965 minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of
966 Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape
967 from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent
968 offense in another state; (b) convicted of any felony violation relating to possession of drugs as set out
969 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date
970 for employment, to be a volunteer, or to provide contractual services; or (c) convicted of any felony
971 violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
972 18.2 and continue on probation or parole or have failed to pay required court costs. The provisions of
973 this section also shall apply to residential programs established pursuant to § 16.1-309.3 for juvenile
974 offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is
975 delinquent or in need of services or supervision, and to local secure detention facilities provided,
976 however, that the provisions of this section related to local secure detention facilities shall only apply to
977 an individual who, on or after July 1, 2013, accepts a position of employment at such local secure
978 detention facility, volunteers at such local secure detention facility on a regular basis and will be alone
979 with a juvenile in the performance of his duties, or provides contractual services directly to a juvenile at
980 a local secure detention facility on a regular basis and will be alone with a juvenile in the performance
981 of his duties. The Central Criminal Records Exchange and the state or local agency that regulates or

operates the local secure detention facility shall process the criminal history record information regarding such applicant in accordance with this subsection and subsection B.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the applicant is denied employment or the opportunity to volunteer or provide services at a children's residential facility because of information appearing on his criminal history record, and the applicant disputes the information upon which the denial was based, upon written request of the applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. If the applicant has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the applicant from his position pending a final determination of the applicant's eligibility to have responsibility for the safety and well-being of children. The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those individuals listed in clauses (i), (ii) and (iii) of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting an applicant to work alone with children. Children's residential facilities regulated or operated by the Departments of Education; Behavioral Health and Developmental Services; Military Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect. Every residential facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be authorized to obtain a copy of the information from the central registry.

D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with the provisions of this section. Copies of any information received by a children's residential facility pursuant to this section shall be available to the agency that regulates or operates such facility but shall not be disseminated further. *The Department shall establish a fee not to exceed \$40 or the amount equal to the actual cost of the background check conducted by the Department of State Police and the Federal Bureau of Investigation, whichever is greater, for background checks pursuant to this section.* The cost of obtaining the criminal history record and the central registry information shall be borne by the employee or volunteer unless the children's residential facility, at its option, decides to pay the cost.

§ 63.2-1726.1. National Criminal History Background Check Fund.

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Background Check Assistance Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to §§ 63.2-1704.1, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, and 63.2-1726; all grants, donations, gifts, and bequests; and all moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out criminal history background checks required pursuant to § 63.2-1704.1, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, or 63.2-1726. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.*

B. *The Department shall report annually to the Governor and the General Assembly information about the cost of conducting background checks pursuant to §§ 63.2-1704.1, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, and 63.2-1726, including information about deposits to and expenditures from the Fund.*

2. That the Department of Social Services may enter into a contractual agreement with a nonprofit organization for the purpose of screening and processing criminal history background information for unlicensed child day centers pursuant to § 63.2-1724 of the Code of Virginia and child day centers or family day homes receiving federal, state, or local child care funds pursuant to § 63.2-1725 of the Code of Virginia. Such agreement shall include requirements for development of a statewide plan for the operation of a background check screening system and the provision of training and technical and other assistance to child care providers.