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## SENATE BILL NO. 353

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend and reenact §§ 15.2-914, 19.2-389, 19.2-392.02, 22.1-296.3, 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 63.2-901.1, 63.2-1601.1, 63.2-1704, 63.2-1717, and 63.2-1720 through 63.2-1726 of the Code of Virginia and to repeal § 63.2-1719 of the Code of Virginia, relating to criminal history background checks; barrier crimes.*

Patron—Edwards

Referred to Committee on Rehabilitation and Social Services

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

1. That §§ 15.2-914, 19.2-389, 19.2-392.02, 22.1-296.3, 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 63.2-901.1, 63.2-1601.1, 63.2-1704, 63.2-1717, and 63.2-1720 through 63.2-1726 of the Code of Virginia are amended and reenacted as follows:

**§ 15.2-914. Regulation of child-care services and facilities in certain counties and cities.**

Any (i) county that has adopted the urban county executive form of government, (ii) city adjacent to a county that has adopted the urban county executive form of government, or (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 63.2-1716.

Such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities so long as such regulation remains no more extensive in scope than comparable state regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children, the physical or sexual abuse or rape of a child or any offense identified in § 63.2-1719, and such of the following or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult:

*1. Crimes against the person, or an equivalent offense in another state:**Capital murder, as set out in § 18.2-31;**First or second degree murder, as set out in § 18.2-32;**Murder of a pregnant woman, as set out in § 18.2-32.1;**Killing of a fetus, as set out in § 18.2-32.2;**Felony homicide, as set out in § 18.2-33;**Voluntary manslaughter, as set out in § 18.2-35;**Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;**Malicious wounding by mob, as set out in § 18.2-41;**Assault or battery by mob, as set out in § 18.2-42;**Abduction, as set out in subsection A or B of § 18.2-47;**Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;**Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;**Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;**Aggravated malicious wounding, as set out in § 18.2-51.2;**Reckless endangerment, as set out in § 18.2-51.3;*

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59 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;  
60 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
61 § 18.2-51.5;  
62 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
63 as set out in § 18.2-52;  
64 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
65 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
66 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
67 Attempts to poison, as set out in § 18.2-54.1;  
68 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
69 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
70 probationers, or adult parolees, as set out in § 18.2-55;  
71 Hazing of youth gang members, as set out in § 18.2-55.1;  
72 Hazing, as set out in § 18.2-56;  
73 Reckless handling of firearms, as set out in § 18.2-56.1;  
74 Allowing access to firearms by children, as set out in § 18.2-56.2;  
75 Assault and battery, as set out in § 18.2-57;  
76 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;  
77 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;  
78 Assault and battery against a family or household member, as set out in § 18.2-57.2;  
79 Robbery, as set out in § 18.2-58;  
80 Carjacking, as set out in § 18.2-58.1;  
81 Extortion by threat, as set out in § 18.2-59;  
82 Threat of death or bodily injury, as set out in § 18.2-60;  
83 Any felony stalking offense, as set out in § 18.2-60.3;  
84 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;  
85 Rape, as set out in § 18.2-61;  
86 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;  
87 Carnal knowledge of certain minors, as set out in § 18.2-64.1;  
88 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as  
89 set out in § 18.2-64.2;  
90 Forcible sodomy, as set out in § 18.2-67.1;  
91 Object sexual penetration, as set out in § 18.2-67.2;  
92 Aggravated sexual battery, as set out in § 18.2-67.3;  
93 Sexual battery, as set out in § 18.2-67.4;  
94 Infected sexual battery, as set out in § 18.2-67.4.1;  
95 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;  
96 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual  
97 battery, as set out in § 18.2-67.5;  
98 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;  
99 or  
100 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;  
101 2. Crimes against property, or an equivalent offense in another state:  
102 Burning or destroying dwelling house, etc., as set out in § 18.2-77;  
103 Burning or destroying meeting house, etc., as set out in § 18.2-79;  
104 Burning or destroying any other building or structure, as set out in § 18.2-80;  
105 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;  
106 Burning building or structure while in such building or structure with intent to commit a felony, as  
107 set out in § 18.2-82;  
108 Threats to bomb or damage buildings or means of transportation; false information as to danger to  
109 such buildings, etc., as set out in § 18.2-83;  
110 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;  
111 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
112 § 18.2-85;  
113 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
114 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in  
115 § 18.2-87;  
116 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §  
117 18.2-87.1;  
118 Carelessly damaging property by fire, as set out in § 18.2-88;  
119 Burglary, as set out in § 18.2-89;  
120 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in

121 § 18.2-90;  
 122 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 123 *set out in § 18.2-91;*  
 124 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 125 *18.2-92;*  
 126 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 127 *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 128 3. *Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 129 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 130 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 131 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 132 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 133 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 134 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 135 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 136 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 137 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 138 *in § 18.2-248.1;*  
 139 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 140 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*  
 141 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 142 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*  
 143 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*  
 144 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 145 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*  
 146 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*  
 147 *Conspiracy, as set out in § 18.2-256;*  
 148 *Attempts, as set out in § 18.2-257;*  
 149 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*  
 150 *in § 18.2-258;*  
 151 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*  
 152 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*  
 153 *as set out in § 18.2-258.1; or*  
 154 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*  
 155 4. *Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*  
 156 *Possession of controlled substances, as set out in § 18.2-250;*  
 157 *Possession of flunitrazepam, as set out in § 18.2-251.2;*  
 158 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 159 *Conspiracy, as set out in § 18.2-256; or*  
 160 *Attempts, as set out in § 18.2-257;*  
 161 5. *Crimes involving health or safety, or an equivalent offense in another state:*  
 162 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 163 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 164 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 165 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 166 *of § 18.2-300; or*  
 167 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 168 6. *Crimes involving morals and decency, or an equivalent offense in another state:*  
 169 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 170 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 171 *Incest, as set out in § 18.2-366;*  
 172 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 173 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 174 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*  
 175 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*  
 176 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*  
 177 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*  
 178 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*  
 179 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 180 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 181 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*

182 § 18.2-374.1:1;

183 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
184 *18.2-374.3;*

185 *Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§*  
186 *18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*

187 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*  
188 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*  
189 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*  
190 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*

191 *7. Crimes against the administration of justice, or an equivalent offense in another state:*

192 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*

193 *Escape from jail, as set out in § 18.2-477;*

194 *8. Any felony offense by prisoners as set out in § 53.1-203; or*

195 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*  
196 *elapsed between the date of conviction and the date of application.*

197 *Such ordinances may require that persons who provide child-care services shall provide certification*  
198 *from the central registry of the Department of Social Services that such persons have not been the*  
199 *subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any*  
200 *adverse information appearing on a record obtained from the Central Criminal Records Exchange, the*  
201 *national criminal background check, or the Department of Social Services, the applicant shall be*  
202 *provided a copy of the information upon which that denial was based.*

203 **§ 19.2-389. Dissemination of criminal history record information.**

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

206 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
207 purposes of the administration of criminal justice and the screening of an employment application or  
208 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
209 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
210 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
211 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

212 2. Such other individuals and agencies that require criminal history record information to implement  
213 a state or federal statute or executive order of the President of the United States or Governor that  
214 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such  
215 conduct, except that information concerning the arrest of an individual may not be disseminated to a  
216 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
217 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
218 pending;

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

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

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

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

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

238 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.)  
239 and their contractors, for the conduct of investigations of individuals who have been offered a position  
240 of employment whenever, in the interest of public welfare or safety and as authorized in the  
241 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
242 with a conviction record would be compatible with the nature of the employment under consideration;

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

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

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

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

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day care homes or homes approved by family day care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ ~~63.2-1719~~, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' 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;

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

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

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

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

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

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

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

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

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

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

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious

305 elementary or secondary schools which are accredited by a statewide accrediting organization  
306 recognized, prior to January 1, 1996, by the State Board of Education or a private organization  
307 coordinating such records information on behalf of such governing boards or administrators pursuant to  
308 a written agreement with the Department of State Police;

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

311 25. Members of a threat assessment team established by a public institution of higher education  
312 pursuant to § 23-9.2:10 or by a private nonprofit institution of higher education, for the purpose of  
313 assessing or intervening with an individual whose behavior may present a threat to safety; however, no  
314 member of a threat assessment team shall redisclose any criminal history record information obtained  
315 pursuant to this section or otherwise use any record of an individual beyond the purpose that such  
316 disclosure was made to the threat assessment team;

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

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

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

325 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
326 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
327 purpose of determining if any applicant who accepts employment in any direct care position has been  
328 convicted of a crime that affects his fitness to have responsibility for the safety and well-being of  
329 individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416,  
330 37.2-506, and 37.2-607;

331 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
332 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
333 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

337 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
338 determining an individual's fitness for employment in positions designated as sensitive under Department  
339 of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal  
340 history record information to the agencies shall be limited to those positions generally described as  
341 directly responsible for the health, safety and welfare of the general populace or protection of critical  
342 infrastructures;

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

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

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

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

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

363 38. The State Corporation Commission for the purpose of investigating individuals who are current  
364 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
365 Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an  
366 application is denied based in whole or in part on information obtained from the Central Criminal

Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

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

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

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

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

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

44. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in ~~§ 63.2-1719~~ §§ 63.2-1720 and 63.2-1721.

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

**§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**

**employees or volunteers providing care to children, the elderly and disabled.**

A. For purposes of this section:

"Barrier crime" means any offense set forth in § ~~63.2-1719~~ 63.2-1720, 63.2-1721, 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, 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) owns, operates or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children, 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 63.2-1720, 63.2-1721 and 63.2-1724, 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, 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, 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.

**§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.**

A. As a condition of employment, 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 shall require any applicant who accepts employment for the first time after July 1, 1998, whether full-time or part-time, permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of the following crimes or their equivalent if from another jurisdiction: any offense set forth in § 63.2-1719 or 63.2-1726, use of a firearm in the commission of a felony as set out in § 18.2-53.1, or an equivalent offense in another state or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult:

1. Crimes against the person, or an equivalent offense in another state:
  - Capital murder, as set out in § 18.2-31;
  - First or second degree murder, as set out in § 18.2-32;
  - Murder of a pregnant woman, as set out in § 18.2-32.1;
  - Killing of a fetus, as set out in § 18.2-32.2;
  - Felony homicide, as set out in § 18.2-33;
  - Voluntary manslaughter, as set out in § 18.2-35;
  - Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
  - Malicious wounding by mob, as set out in § 18.2-41;
  - Assault or battery by mob, as set out in § 18.2-42;
  - Abduction, as set out in subsection A or B of § 18.2-47;
  - Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
  - Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
  - Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;
  - Aggravated malicious wounding, as set out in § 18.2-51.2;
  - Reckless endangerment, as set out in § 18.2-51.3;
  - Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
  - Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;
  - Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;
  - Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
  - Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
  - Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
  - Attempts to poison, as set out in § 18.2-54.1;
  - Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
  - Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers, or adult parolees, as set out in § 18.2-55;
  - Hazing of youth gang members, as set out in § 18.2-55.1;
  - Hazing, as set out in § 18.2-56;
  - Reckless handling of firearms, as set out in § 18.2-56.1;
  - Allowing access to firearms by children, as set out in § 18.2-56.2;
  - Assault and battery, as set out in § 18.2-57;
  - Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
  - Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
  - Assault and battery against a family or household member, as set out in § 18.2-57.2;
  - Robbery, as set out in § 18.2-58;

- 551 Carjacking, as set out in § 18.2-58.1;  
 552 Extortion by threat, as set out in § 18.2-59;  
 553 Threat of death or bodily injury, as set out in § 18.2-60;  
 554 Any felony stalking offense, as set out in § 18.2-60.3;  
 555 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;  
 556 Rape, as set out in § 18.2-61;  
 557 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;  
 558 Carnal knowledge of certain minors, as set out in § 18.2-64.1;  
 559 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as  
 560 set out in § 18.2-64.2;  
 561 Forcible sodomy, as set out in § 18.2-67.1;  
 562 Object sexual penetration, as set out in § 18.2-67.2;  
 563 Aggravated sexual battery, as set out in § 18.2-67.3;  
 564 Sexual battery, as set out in § 18.2-67.4;  
 565 Infected sexual battery, as set out in § 18.2-67.4:1;  
 566 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;  
 567 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual  
 568 battery, as set out in § 18.2-67.5;  
 569 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;  
 570 or  
 571 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;  
 572 2. Crimes against property, or an equivalent offense in another state:  
 573 Burning or destroying dwelling house, etc., as set out in § 18.2-77;  
 574 Burning or destroying meeting house, etc., as set out in § 18.2-79;  
 575 Burning or destroying any other building or structure, as set out in § 18.2-80;  
 576 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;  
 577 Burning building or structure while in such building or structure with intent to commit a felony, as  
 578 set out in § 18.2-82;  
 579 Threats to bomb or damage buildings or means of transportation; false information as to danger to  
 580 such buildings, etc., as set out in § 18.2-83;  
 581 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;  
 582 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
 583 § 18.2-85;  
 584 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
 585 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in  
 586 § 18.2-87;  
 587 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §  
 588 18.2-87.1;  
 589 Carelessly damaging property by fire, as set out in § 18.2-88;  
 590 Burglary, as set out in § 18.2-89;  
 591 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in  
 592 § 18.2-90;  
 593 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as  
 594 set out in § 18.2-91;  
 595 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §  
 596 18.2-92;  
 597 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or  
 598 Possession of burglarious tools, etc., as set out in § 18.2-94;  
 599 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with  
 600 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:  
 601 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 602 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;  
 603 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;  
 604 Allowing a minor or incapacitated person to be present during manufacture or attempted  
 605 manufacture of methamphetamine, as set out in § 18.2-248.02;  
 606 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 607 distribute methamphetamine, as set out in § 18.2-248.03;  
 608 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out  
 609 in § 18.2-248.1;  
 610 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 611 distribute synthetic cannabinoids as set out in § 18.2-248.1:1;  
 612 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or

613 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 614 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 615 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 616 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 617 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 618 Conspiracy, as set out in § 18.2-256;  
 619 Attempts, as set out in § 18.2-257;  
 620 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 621 in § 18.2-258;  
 622 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 623 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 624 as set out in § 18.2-258.1; or  
 625 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 626 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
 627 Possession of controlled substances, as set out in § 18.2-250;  
 628 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 629 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 630 Conspiracy, as set out in § 18.2-256; or  
 631 Attempts, as set out in § 18.2-257;  
 632 5. Crimes involving health or safety, or an equivalent offense in another state:  
 633 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 634 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 635 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 636 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
 637 of § 18.2-300; or  
 638 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 639 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 640 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 641 Crimes against nature, as set out in § 18.2-361, involving children;  
 642 Incest, as set out in § 18.2-366;  
 643 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 644 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 645 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 646 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
 647 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
 648 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
 649 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 650 Abuse or neglect of children, as set out in § 18.2-371.1;  
 651 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 652 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
 653 § 18.2-374.1:1;  
 654 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 655 18.2-374.3;  
 656 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 657 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 658 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 659 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
 660 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
 661 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 662 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 663 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 664 Escape from jail, as set out in § 18.2-477;  
 665 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 666 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have  
 667 elapsed between the date of conviction and the date of application.  
 668 B. The Central Criminal Records Exchange shall not disclose information to such governing board,  
 669 administrator, or private organization coordinating such records regarding charges or convictions of any  
 670 crimes. If any applicant is denied employment because of information appearing on the criminal history  
 671 record and the applicant disputes the information upon which the denial was based, the Central Criminal  
 672 Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the  
 673 criminal history record from the Federal Bureau of Investigation. The information provided to the

governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private or religious elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

In addition to the fees assessed by the Federal Bureau of Investigation, the Department of State Police may assess a fee for responding to requests required by this section which shall not exceed \$15 per request for a criminal records check.

For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private or religious schools or a private or religious school accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education.

Nothing in this section or § 19.2-389 shall be construed to require any private or religious school which is not so accredited to comply with this section.

**§ 32.1-126.01. Employment for compensation of persons convicted of certain offenses prohibited; criminal records check required; suspension or revocation of license.**

A. A licensed nursing home shall not hire for compensated employment, persons who have been convicted of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threats of death or bodily injury as set out in § 18.2-60; felony stalking as set out in § 18.2-60.3; a felony violation of a protective order as 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 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; drive by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state any of the following or an equivalent offense in another state:

*Capital murder, as set out in § 18.2-31;*

*First or second degree murder, as set out in § 18.2-32;*

*Murder of a pregnant woman, as set out in § 18.2-32.1;*

*Killing of a fetus, as set out in § 18.2-32.2;*

*Felony homicide, as set out in § 18.2-33;*

*Voluntary manslaughter, as set out in § 18.2-35;*

*Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

*Malicious wounding by mob, as set out in § 18.2-41;*

*Abduction, as set out in subsection A or B of § 18.2-47;*

*Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

*Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*

*Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;*

*Aggravated malicious wounding, as set out in § 18.2-51.2;*

*Reckless endangerment, as set out in § 18.2-51.3;*

*Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*

*Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*

736 § 18.2-51.5;  
 737 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 738 as set out in § 18.2-52;  
 739 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
 740 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
 741 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
 742 Attempts to poison, as set out in § 18.2-54.1;  
 743 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
 744 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 745 probationers, or adult parolees, as set out in § 18.2-55;  
 746 Hazing of youth gang members, as set out in § 18.2-55.1;  
 747 Hazing, as set out in § 18.2-56;  
 748 Reckless handling of firearms, as set out in § 18.2-56.1;  
 749 Allowing access to firearms by children, as set out in § 18.2-56.2;  
 750 Assault and battery, as set out in § 18.2-57;  
 751 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;  
 752 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;  
 753 Assault and battery against a family or household member, as set out in § 18.2-57.2;  
 754 Robbery, as set out in § 18.2-58;  
 755 Carjacking, as set out in § 18.2-58.1;  
 756 Extortion by threat, as set out in § 18.2-59;  
 757 Threat of death or bodily injury, as set out in § 18.2-60;  
 758 Any felony stalking offense, as set out in § 18.2-60.3;  
 759 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;  
 760 Rape, as set out in § 18.2-61;  
 761 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;  
 762 Carnal knowledge of certain minors, as set out in § 18.2-64.1;  
 763 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as  
 764 set out in § 18.2-64.2;  
 765 Forcible sodomy, as set out in § 18.2-67.1;  
 766 Object sexual penetration, as set out in § 18.2-67.2;  
 767 Aggravated sexual battery, as set out in § 18.2-67.3;  
 768 Sexual battery, as set out in § 18.2-67.4;  
 769 Infected sexual battery, as set out in § 18.2-67.4.1;  
 770 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;  
 771 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual  
 772 battery, as set out in § 18.2-67.5;  
 773 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;  
 774 or  
 775 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;  
 776 Burning or destroying dwelling house, etc., as set out in § 18.2-77;  
 777 Burning or destroying meeting house, etc., as set out in § 18.2-79;  
 778 Burning or destroying any other building or structure, as set out in § 18.2-80;  
 779 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;  
 780 Burning building or structure while in such building or structure with intent to commit a felony, as  
 781 set out in § 18.2-82;  
 782 Threats to bomb or damage buildings or means of transportation; false information as to danger to  
 783 such buildings, etc., as set out in § 18.2-83;  
 784 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;  
 785 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
 786 § 18.2-85;  
 787 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
 788 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in  
 789 § 18.2-87;  
 790 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §  
 791 18.2-87.1;  
 792 Carelessly damaging property by fire, as set out in § 18.2-88;  
 793 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 794 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 795 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 796 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A

797 of § 18.2-300; or  
 798 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 799 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 800 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 801 *Incest, as set out in § 18.2-366;*  
 802 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 803 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 804 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 805 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 806 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
 807 *§ 18.2-374.1.1;*  
 808 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
 809 *18.2-374.3;*  
 810 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
 811 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*  
 812 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*  
 813 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*  
 814 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*  
 815 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*  
 816 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1;*  
 817 *Escape from jail, as set out in § 18.2-477; or*  
 818 *Any felony offense by prisoners as set out in § 53.1-203.*  
 819 However, a licensed nursing home may hire an applicant who has been convicted of one  
 820 misdemeanor specified in this section not involving abuse or neglect, if five years have elapsed  
 821 following the conviction.  
 822 Any person desiring to work at a licensed nursing home shall provide the hiring facility with a sworn  
 823 statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether  
 824 within or without the Commonwealth. Any person making a materially false statement when providing  
 825 such sworn statement or affirmation regarding any such offense shall be guilty upon conviction of a  
 826 Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is  
 827 prohibited other than to a federal or state authority or court as may be required to comply with an  
 828 express requirement of law for such further dissemination.  
 829 A nursing home shall, within 30 days of employment, obtain for any compensated employees an  
 830 original criminal record clearance with respect to convictions for offenses specified in this section or an  
 831 original criminal history record from the Central Criminal Records Exchange. The provisions of this  
 832 section shall be enforced by the Commissioner. If an applicant is denied employment because of  
 833 convictions appearing on his criminal history record, the nursing home shall provide a copy of the  
 834 information obtained from the Central Criminal Records Exchange to the applicant.  
 835 The provisions of this section shall not apply to volunteers who work with the permission or under  
 836 the supervision of a person who has received a clearance pursuant to this section.  
 837 B. A person who complies in good faith with the provisions of this section shall not be liable for  
 838 any civil damages for any act or omission in the performance of duties under this section unless the act  
 839 or omission was the result of gross negligence or willful misconduct.  
 840 C. A licensed nursing home shall notify and provide to all students a copy of the provisions of this  
 841 section prior to or upon enrollment in a certified nurse aide program operated by such nursing home.  
 842 **§ 32.1-162.9:1. Employment for compensation of persons convicted of certain offenses**  
 843 **prohibited; criminal records check required; drug testing; suspension or revocation of license.**  
 844 A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization  
 845 exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in  
 846 § 32.1-162.1 shall not hire for compensated employment, persons who have been convicted of a felony  
 847 violation of a protective order as set out in ~~§ 16.1-253.2~~, murder or manslaughter as set out in Article 4  
 848 (~~§ 18.2-30 et seq.~~) of Chapter 4 of Title 18.2, malicious wounding by a mob as set out in ~~§ 18.2-41~~,  
 849 abduction as set out in subsection A or B of ~~§ 18.2-47~~, abduction for immoral purposes as set out in  
 850 ~~§ 18.2-48~~, assaults and bodily woundings as set out in Article 4 (~~§ 18.2-51 et seq.~~) of Chapter 4 of Title  
 851 18.2, robbery as set out in ~~§ 18.2-58~~, carjacking as set out in ~~§ 18.2-58.1~~, extortion by threat as set out  
 852 in ~~§ 18.2-59~~, threats of death or bodily injury as set out in ~~§ 18.2-60~~, felony stalking as set out in ~~§~~  
 853 ~~18.2-60.3~~, a felony violation of a protective order as set out in ~~§ 18.2-60.4~~, sexual assault as set out in  
 854 Article 7 (~~§ 18.2-61 et seq.~~) of Chapter 4 of Title 18.2, arson as set out in Article 1 (~~§ 18.2-77 et seq.~~)  
 855 of Chapter 5 of Title 18.2, drive by shooting as set out in ~~§ 18.2-286.1~~, use of a machine gun in a crime  
 856 of violence as set out in ~~§ 18.2-289~~, aggressive use of a machine gun as set out in ~~§ 18.2-290~~, use of a  
 857 sawed-off shotgun in a crime of violence as set out in subsection A of ~~§ 18.2-300~~, pandering as set out  
 858 in ~~§ 18.2-355~~, crimes against nature involving children as set out in ~~§ 18.2-361~~, incest as set out in

~~§ 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-374, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203, or an equivalent offense in another state any of the following or an equivalent offense in another state:~~

- ~~Capital murder, as set out in § 18.2-31;~~
- ~~First or second degree murder, as set out in § 18.2-32;~~
- ~~Murder of a pregnant woman, as set out in § 18.2-32.1;~~
- ~~Killing of a fetus, as set out in § 18.2-32.2;~~
- ~~Felony homicide, as set out in § 18.2-33;~~
- ~~Voluntary manslaughter, as set out in § 18.2-35;~~
- ~~Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;~~
- ~~Malicious wounding by mob, as set out in § 18.2-41;~~
- ~~Abduction, as set out in subsection A or B of § 18.2-47;~~
- ~~Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;~~
- ~~Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;~~
- ~~Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;~~
- ~~Aggravated malicious wounding, as set out in § 18.2-51.2;~~
- ~~Reckless endangerment, as set out in § 18.2-51.3;~~
- ~~Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;~~
- ~~Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;~~
- ~~Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;~~
- ~~Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;~~
- ~~Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;~~
- ~~Use or display of firearm in committing a felony, as set out in § 18.2-53.1;~~
- ~~Attempts to poison, as set out in § 18.2-54.1;~~
- ~~Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;~~
- ~~Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers, or adult parolees, as set out in § 18.2-55;~~
- ~~Hazing of youth gang members, as set out in § 18.2-55.1;~~
- ~~Hazing, as set out in § 18.2-56;~~
- ~~Reckless handling of firearms, as set out in § 18.2-56.1;~~
- ~~Allowing access to firearms by children, as set out in § 18.2-56.2;~~
- ~~Assault and battery, as set out in § 18.2-57;~~
- ~~Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;~~
- ~~Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;~~
- ~~Assault and battery against a family or household member, as set out in § 18.2-57.2;~~
- ~~Robbery, as set out in § 18.2-58;~~
- ~~Carjacking, as set out in § 18.2-58.1;~~
- ~~Extortion by threat, as set out in § 18.2-59;~~
- ~~Threat of death or bodily injury, as set out in § 18.2-60;~~
- ~~Any felony stalking offense, as set out in § 18.2-60.3;~~
- ~~Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;~~
- ~~Rape, as set out in § 18.2-61;~~
- ~~Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;~~
- ~~Carnal knowledge of certain minors, as set out in § 18.2-64.1;~~
- ~~Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as set out in § 18.2-64.2;~~
- ~~Forcible sodomy, as set out in § 18.2-67.1;~~
- ~~Object sexual penetration, as set out in § 18.2-67.2;~~
- ~~Aggravated sexual battery, as set out in § 18.2-67.3;~~
- ~~Sexual battery, as set out in § 18.2-67.4;~~
- ~~Infected sexual battery, as set out in § 18.2-67.4.1;~~
- ~~Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;~~

920 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*  
921 *battery, as set out in § 18.2-67.5;*  
922 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1; or*  
923 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*  
924 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*  
925 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*  
926 *Burning or destroying any other building or structure, as set out in § 18.2-80;*  
927 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*  
928 *Burning building or structure while in such building or structure with intent to commit a felony, as*  
929 *set out in § 18.2-82;*  
930 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*  
931 *such buildings, etc., as set out in § 18.2-83;*  
932 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*  
933 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*  
934 *§ 18.2-85;*  
935 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
936 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
937 *§ 18.2-87;*  
938 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
939 *18.2-87.1;*  
940 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
941 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
942 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
943 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
944 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
945 *of § 18.2-300; or*  
946 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
947 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
948 *Crimes against nature, as set out in § 18.2-361, involving children;*  
949 *Incest, as set out in § 18.2-366;*  
950 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
951 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
952 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
953 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
954 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
955 *§ 18.2-374.1:1;*  
956 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
957 *18.2-374.3;*  
958 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
959 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*  
960 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*  
961 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*  
962 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*  
963 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*  
964 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1;*  
965 *Escape from jail, as set out in § 18.2-477; or*  
966 *Any felony offense by prisoners as set out in § 53.1-203.*  
967 *However, a home care organization or hospice may hire an applicant convicted of one misdemeanor*  
968 *specified in this section not involving abuse or neglect, if five years have elapsed since the conviction.*  
969 *Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any*  
970 *home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any*  
971 *licensed hospice as defined in § 32.1-162.1 shall provide the hiring facility with a sworn statement or*  
972 *affirmation disclosing any criminal convictions or any pending criminal charges, whether within or*  
973 *without the Commonwealth. Any person making a materially false statement when providing such sworn*  
974 *statement or affirmation regarding any such offense shall be guilty upon conviction of a Class 1*  
975 *misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited*  
976 *other than to a federal or state authority or court as may be required to comply with an express*  
977 *requirement of law for such further dissemination.*  
978 *Such home care organization or hospice shall, within 30 days of employment, obtain for any*  
979 *compensated employees an original criminal record clearance with respect to convictions for offenses*  
980 *specified in this section or an original criminal history record from the Central Criminal Records*  
981 *Exchange. The provisions of this section shall be enforced by the Commissioner. If an applicant is*



denied employment because of convictions appearing on his criminal history record, the home care organization or hospice shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

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

B. A licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 shall establish policies for maintaining a drug-free workplace, which may include drug testing when the employer has cause to believe that the person has engaged in the use of illegal drugs and periodically during the course of employment. All positive results from drug testing administered pursuant to this section shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any.

C. 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.

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

**§ 37.2-314. Background check required.**

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been (i) convicted of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter, as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob, as set out in § 18.2-41; abduction, as set out in subsection A or B of § 18.2-47; abduction for immoral purposes, as set out in § 18.2-48; assault and bodily wounding, as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery, as set out in § 18.2-58; carjacking, as set out in § 18.2-58.1; extortion by threat, as set 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 felony violation of a protective order as 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 18.2; arson, as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 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 violation relating to distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting, as set out in § 18.2-286.1; use of a machine gun in a crime of violence, as set out in § 18.2-289; aggressive use of a machine gun, as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence, as set out in subsection A of § 18.2-300; pandering, as set out in § 18.2-355; crimes against nature involving children, as set out in § 18.2-361; taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children, as set out in § 18.2-371.1, including failing to secure medical attention for an injured child, as set out in § 18.2-314; obscenity offenses, as set out in § 18.2-374.1; possession of child pornography, as set out in § 18.2-374.1-1; electronic facilitation of pornography, as set out in § 18.2-374.3; incest, as set out in § 18.2-366; abuse or neglect of incapacitated adults, as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; delivery of drugs to prisoners, as set out in § 18.2-474.1; escape from jail, as set out in § 18.2-477; felonies by prisoners, as set out in § 53.1-203; or an equivalent offense in another state; (ii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, in the five years prior to the application date for employment; or (iii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, and continue on probation or parole or have failed to pay required court costs:

1. *Crimes against the person, or an equivalent offense in another state:*

*Capital murder, as set out in § 18.2-31;*

*First or second degree murder, as set out in § 18.2-32;*

*Murder of a pregnant woman, as set out in § 18.2-32.1;*

*Killing of a fetus, as set out in § 18.2-32.2;*

*Felony homicide, as set out in § 18.2-33;*

*Voluntary manslaughter, as set out in § 18.2-35;*

- 1043 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*
- 1044 *Malicious wounding by mob, as set out in § 18.2-41;*
- 1045 *Assault or battery by mob, as set out in § 18.2-42;*
- 1046 *Abduction, as set out in subsection A or B of § 18.2-47;*
- 1047 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*
- 1048 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*
- 1049 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
- 1050 *emergency medical service providers, as set out in § 18.2-51.1;*
- 1051 *Aggravated malicious wounding, as set out in § 18.2-51.2;*
- 1052 *Reckless endangerment, as set out in § 18.2-51.3;*
- 1053 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*
- 1054 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
- 1055 *§ 18.2-51.5;*
- 1056 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
- 1057 *as set out in § 18.2-52;*
- 1058 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*
- 1059 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*
- 1060 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
- 1061 *Attempts to poison, as set out in § 18.2-54.1;*
- 1062 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
- 1063 *probationers, or adult parolees, as set out in § 18.2-55;*
- 1064 *Hazing of youth gang members, as set out in § 18.2-55.1;*
- 1065 *Hazing, as set out in § 18.2-56;*
- 1066 *Reckless handling of firearms, as set out in § 18.2-56.1;*
- 1067 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
- 1068 *Assault and battery, as set out in § 18.2-57;*
- 1069 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
- 1070 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
- 1071 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
- 1072 *Robbery, as set out in § 18.2-58;*
- 1073 *Carjacking, as set out in § 18.2-58.1;*
- 1074 *Extortion by threat, as set out in § 18.2-59;*
- 1075 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 1076 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 1077 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 1078 *Rape, as set out in § 18.2-61;*
- 1079 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 1080 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 1081 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 1082 *set out in § 18.2-64.2;*
- 1083 *Forcible sodomy, as set out in § 18.2-67.1;*
- 1084 *Object sexual penetration, as set out in § 18.2-67.2;*
- 1085 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 1086 *Sexual battery, as set out in § 18.2-67.4;*
- 1087 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 1088 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 1089 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 1090 *battery, as set out in § 18.2-67.5;*
- 1091 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*
- 1092 *or*
- 1093 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 1094 *2. Crimes against property, or an equivalent offense in another state:*
- 1095 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 1096 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 1097 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 1098 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 1099 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 1100 *set out in § 18.2-82;*
- 1101 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 1102 *such buildings, etc., as set out in § 18.2-83;*
- 1103 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 1104 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*

1105 § 18.2-85;  
 1106     *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
 1107     *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
 1108 *§ 18.2-87;*  
 1109     *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 1110 *18.2-87.1;*  
 1111     *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 1112     *Burglary, as set out in § 18.2-89;*  
 1113     *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*  
 1114 *§ 18.2-90;*  
 1115     *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 1116 *set out in § 18.2-91;*  
 1117     *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 1118 *18.2-92;*  
 1119     *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 1120     *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 1121     3. *Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 1122 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 1123     *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1124 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 1125     *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 1126     *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 1127 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 1128     *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1129 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 1130     *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 1131 *in § 18.2-248.1;*  
 1132     *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1133 *distribute synthetic cannabinoids as set out in § 18.2-248.1:1;*  
 1134     *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1135 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*  
 1136     *Distribution of flunitrazepam, as set out in § 18.2-251.2;*  
 1137     *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 1138     *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*  
 1139     *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*  
 1140     *Conspiracy, as set out in § 18.2-256;*  
 1141     *Attempts, as set out in § 18.2-257;*  
 1142     *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*  
 1143 *in § 18.2-258;*  
 1144     *Maintaining a fortified drug house, as set out in § 18.2-258.02;*  
 1145     *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*  
 1146 *as set out in § 18.2-258.1; or*  
 1147     *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*  
 1148     4. *Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if*  
 1149 *less than five years have elapsed between the date of conviction and the date of application for*  
 1150 *employment or if the applicant continues to be on probation or parole or has failed to pay required*  
 1151 *court costs:*  
 1152     *Possession of controlled substances, as set out in § 18.2-250;*  
 1153     *Possession of flunitrazepam, as set out in § 18.2-251.2;*  
 1154     *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 1155     *Conspiracy, as set out in § 18.2-256; or*  
 1156     *Attempts, as set out in § 18.2-257;*  
 1157     5. *Crimes involving health or safety, or an equivalent offense in another state:*  
 1158     *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 1159     *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 1160     *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 1161     *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 1162 *of § 18.2-300; or*  
 1163     *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 1164     6. *Crimes involving morals and decency, or an equivalent offense in another state:*  
 1165     *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*

1166 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 1167 *Incest, as set out in § 18.2-366;*  
 1168 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 1169 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 1170 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 1171 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 1172 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
 1173 *§ 18.2-374.1.1;*  
 1174 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
 1175 *18.2-374.3; or*  
 1176 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
 1177 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*  
 1178 *7. Crimes against the administration of justice, or an equivalent offense in another state:*  
 1179 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*  
 1180 *Escape from jail, as set out in § 18.2-477; or*  
 1181 *8. Any felony offense by prisoners as set out in § 53.1-203.*  
 1182 C. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that  
 1183 no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied  
 1184 employment because of information appearing on his criminal history record and the applicant disputes  
 1185 the information upon which the denial was based, the Central Criminal Records Exchange shall, upon  
 1186 written request, furnish to the applicant the procedures for obtaining a copy of the criminal history  
 1187 record from the FBI. The information provided to the state facility or Department shall not be  
 1188 disseminated except as provided in this section.  
 1189 D. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or  
 1190 Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any  
 1191 investigation of child abuse or neglect undertaken on them.  
 1192 E. The Board may adopt regulations to comply with the provisions of this section. Copies of any  
 1193 information received by the state facility or Department pursuant to this section shall be available to the  
 1194 Department and to the applicable state facility but shall not be disseminated further, except as permitted  
 1195 by state or federal law. The cost of obtaining the criminal history record and the central registry  
 1196 information shall be borne by the applicant, unless the Department or state facility decides to pay the  
 1197 cost.  
 1198 **§ 37.2-408.1. Background check required; children's residential facilities.**  
 1199 A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or  
 1200 providing services on a regular basis, every children's residential facility that is regulated or operated by  
 1201 the Department shall require any person who (i) accepts a position of employment at such a facility who  
 1202 was not employed by that facility prior to July 1, 2008, (ii) volunteers for such a facility on a regular  
 1203 basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such  
 1204 facility prior to July 1, 2008, or (iii) provides contractual services directly to a juvenile for such facility  
 1205 on a regular basis and will be alone with a juvenile in the performance of his duties who did not  
 1206 provide such services prior to July 1, 2008, to submit to fingerprinting and to provide personal  
 1207 descriptive information, to be forwarded along with the person's fingerprints through the Central  
 1208 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal  
 1209 history record information regarding the person. The children's residential facility shall inform the person  
 1210 that he is entitled to obtain a copy of any background check report and to challenge the accuracy and  
 1211 completeness of any such report and obtain a prompt resolution before a final determination is made of  
 1212 the person's eligibility to have responsibility for the safety and well-being of children. The person shall  
 1213 provide the children's residential facility with a written statement or affirmation disclosing whether he  
 1214 has ever been convicted of or is the subject of pending charges for any offense within or outside the  
 1215 Commonwealth. The results of the criminal history background check must be received prior to  
 1216 permitting a person to work with children.  
 1217 The Central Criminal Records Exchange, upon receipt of a person's record or notification that no  
 1218 record exists, shall forward it to the state agency that operates or regulates the children's residential  
 1219 facility with which the person is affiliated. The state agency shall, upon receipt of a person's record  
 1220 lacking disposition data, conduct research in whatever state and local recordkeeping systems are  
 1221 available in order to obtain complete data. The state agency shall report to the children's facility whether  
 1222 the person is eligible to have responsibility for the safety and well-being of children. Except as  
 1223 otherwise provided in subsection B, no children's residential facility regulated or operated by the  
 1224 Department shall hire for compensated employment or allow to volunteer or provide contractual services  
 1225 persons who have been (a) convicted of or are the subject of pending charges for the following crimes:  
 1226 a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in  
 1227 Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in

§ 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; earjacking as set out in § 18.2-58.1; extortion by threat as set 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 felony violation of a protective order as 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 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 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 violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out § 18.2-361; taking indecent liberties with children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in § 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state; or (b) convicted of any felony violation relating to possession of drugs set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date for employment; to be a volunteer, or to provide contractual services; or (c) convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and continue on probation or parole or have failed to pay required court costs:

1. Crimes against the person, or an equivalent offense in another state:
  - Capital murder, as set out in § 18.2-31;
  - First or second degree murder, as set out in § 18.2-32;
  - Murder of a pregnant woman, as set out in § 18.2-32.1;
  - Killing of a fetus, as set out in § 18.2-32.2;
  - Felony homicide, as set out in § 18.2-33;
  - Voluntary manslaughter, as set out in § 18.2-35;
  - Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
  - Malicious wounding by mob, as set out in § 18.2-41;
  - Abduction, as set out in subsection A or B of § 18.2-47;
  - Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
  - Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
  - Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;
  - Aggravated malicious wounding, as set out in § 18.2-51.2;
  - Reckless endangerment, as set out in § 18.2-51.3;
  - Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
  - Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;
  - Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;
  - Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
  - Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
  - Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
  - Attempts to poison, as set out in § 18.2-54.1;
  - Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
  - Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers, or adult parolees, as set out in § 18.2-55;
  - Hazing of youth gang members, as set out in § 18.2-55.1;
  - Hazing, as set out in § 18.2-56;
  - Reckless handling of firearms, as set out in § 18.2-56.1;
  - Allowing access to firearms by children, as set out in § 18.2-56.2;
  - Assault and battery, as set out in § 18.2-57;
  - Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
  - Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
  - Assault and battery against a family or household member, as set out in § 18.2-57.2;

- 1289 *Robbery, as set out in § 18.2-58;*  
 1290 *Carjacking, as set out in § 18.2-58.1;*  
 1291 *Extortion by threat, as set out in § 18.2-59;*  
 1292 *Threat of death or bodily injury, as set out in § 18.2-60;*  
 1293 *Any felony stalking offense, as set out in § 18.2-60.3;*  
 1294 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*  
 1295 *Rape, as set out in § 18.2-61;*  
 1296 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*  
 1297 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*  
 1298 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*  
 1299 *set out in § 18.2-64.2;*  
 1300 *Forcible sodomy, as set out in § 18.2-67.1;*  
 1301 *Object sexual penetration, as set out in § 18.2-67.2;*  
 1302 *Aggravated sexual battery, as set out in § 18.2-67.3;*  
 1303 *Sexual battery, as set out in § 18.2-67.4;*  
 1304 *Infected sexual battery, as set out in § 18.2-67.4.1;*  
 1305 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*  
 1306 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*  
 1307 *battery, as set out in § 18.2-67.5;*  
 1308 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*  
 1309 *or*  
 1310 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*  
 1311 *2. Crimes against property, or an equivalent offense in another state:*  
 1312 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*  
 1313 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*  
 1314 *Burning or destroying any other building or structure, as set out in § 18.2-80;*  
 1315 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*  
 1316 *Burning building or structure while in such building or structure with intent to commit a felony, as*  
 1317 *set out in § 18.2-82;*  
 1318 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*  
 1319 *such buildings, etc., as set out in § 18.2-83;*  
 1320 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*  
 1321 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*  
 1322 *§ 18.2-85;*  
 1323 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
 1324 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
 1325 *§ 18.2-87;*  
 1326 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 1327 *18.2-87.1;*  
 1328 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 1329 *Burglary, as set out in § 18.2-89;*  
 1330 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*  
 1331 *§ 18.2-90;*  
 1332 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 1333 *set out in § 18.2-91;*  
 1334 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 1335 *18.2-92;*  
 1336 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 1337 *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 1338 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 1339 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 1340 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1341 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 1342 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 1343 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 1344 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 1345 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1346 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 1347 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 1348 *in § 18.2-248.1;*  
 1349 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 1350 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*

Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 Conspiracy, as set out in § 18.2-256;  
 Attempts, as set out in § 18.2-257;  
 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out in § 18.2-258;  
 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery, as set out in § 18.2-258.1; or  
 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if less than five years have elapsed between the date of conviction and the date of application for employment or if the applicant continues to be on probation or parole or has failed to pay required court costs:  
 Possession of controlled substances, as set out in § 18.2-250;  
 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 Conspiracy, as set out in § 18.2-256; or  
 Attempts, as set out in § 18.2-257;  
 5. Crimes involving health or safety, or an equivalent offense in another state:  
 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of § 18.2-300; or  
 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 Crimes against nature, as set out in § 18.2-361, involving children;  
 Incest, as set out in § 18.2-366;  
 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 Abuse or neglect of children, as set out in § 18.2-371.1;  
 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 Possession, reproduction, distribution, or facilitation of child pornography, as set out in § 18.2-374.1.1;  
 Use of communications systems to facilitate certain crimes involving children, as set out in § 18.2-374.3; or  
 Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;  
 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 Escape from jail, as set out in § 18.2-477; or  
 8. Any felony offense by prisoners as set out in § 53.1-203.  
 The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision.  
 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 person 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 person disputes the information upon which the denial was based, upon written request of the person the state agency shall furnish the person the procedures for obtaining his criminal history record from the

Federal Bureau of Investigation. If the person 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 person from his position pending a final determination of the person'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 persons 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 person 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 a person to work alone with children. Children's residential facilities regulated or operated by the Department 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.

D. The cost of obtaining the criminal history record and the central registry information shall be borne by the person unless the children's residential facility, at its option, decides to pay the cost.

**§ 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 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 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 any of the following or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult:

1. Crimes against the person, or an equivalent offense in another state:

Capital murder, as set out in § 18.2-31;

First or second degree murder, as set out in § 18.2-32;

Murder of a pregnant woman, as set out in § 18.2-32.1;

Killing of a fetus, as set out in § 18.2-32.2;

Felony homicide, as set out in § 18.2-33;

Voluntary manslaughter, as set out in § 18.2-35;

Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;



- 1474 Malicious wounding by mob, as set out in § 18.2-41;
- 1475 Assault or battery by mob, as set out in § 18.2-42;
- 1476 Abduction, as set out in subsection A or B of § 18.2-47;
- 1477 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
- 1478 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 1479 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 1480 emergency medical service providers, as set out in § 18.2-51.1;
- 1481 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 1482 Reckless endangerment, as set out in § 18.2-51.3;
- 1483 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 1484 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 1485 § 18.2-51.5;
- 1486 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 1487 as set out in § 18.2-52;
- 1488 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 1489 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 1490 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 1491 Attempts to poison, as set out in § 18.2-54.1;
- 1492 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 1493 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 1494 probationers, or adult parolees, as set out in § 18.2-55;
- 1495 Hazing of youth gang members, as set out in § 18.2-55.1;
- 1496 Hazing, as set out in § 18.2-56;
- 1497 Reckless handling of firearms, as set out in § 18.2-56.1;
- 1498 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 1499 Assault and battery, as set out in § 18.2-57;
- 1500 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 1501 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 1502 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 1503 Robbery, as set out in § 18.2-58;
- 1504 Carjacking, as set out in § 18.2-58.1;
- 1505 Extortion by threat, as set out in § 18.2-59;
- 1506 Threat of death or bodily injury, as set out in § 18.2-60;
- 1507 Any felony stalking offense, as set out in § 18.2-60.3;
- 1508 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 1509 Rape, as set out in § 18.2-61;
- 1510 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 1511 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 1512 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 1513 set out in § 18.2-64.2;
- 1514 Forcible sodomy, as set out in § 18.2-67.1;
- 1515 Object sexual penetration, as set out in § 18.2-67.2;
- 1516 Aggravated sexual battery, as set out in § 18.2-67.3;
- 1517 Sexual battery, as set out in § 18.2-67.4;
- 1518 Infected sexual battery, as set out in § 18.2-67.4.1;
- 1519 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 1520 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 1521 battery, as set out in § 18.2-67.5;
- 1522 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 1523 or
- 1524 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 1525 2. Crimes against property, or an equivalent offense in another state:
- 1526 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 1527 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 1528 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 1529 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 1530 Burning building or structure while in such building or structure with intent to commit a felony, as
- 1531 set out in § 18.2-82;
- 1532 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 1533 such buildings, etc., as set out in § 18.2-83;
- 1534 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;

1535 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
1536 § 18.2-85;  
1537 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
1538 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in  
1539 § 18.2-87;  
1540 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §  
1541 18.2-87.1;  
1542 Carelessly damaging property by fire, as set out in § 18.2-88;  
1543 Burglary, as set out in § 18.2-89;  
1544 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in  
1545 § 18.2-90;  
1546 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as  
1547 set out in § 18.2-91;  
1548 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §  
1549 18.2-92;  
1550 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or  
1551 Possession of burglarious tools, etc., as set out in § 18.2-94;  
1552 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with  
1553 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:  
1554 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
1555 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;  
1556 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;  
1557 Allowing a minor or incapacitated person to be present during manufacture or attempted  
1558 manufacture of methamphetamine, as set out in § 18.2-248.02;  
1559 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
1560 distribute methamphetamine, as set out in § 18.2-248.03;  
1561 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out  
1562 in § 18.2-248.1;  
1563 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
1564 distribute synthetic cannabinoids as set out in § 18.2-248.1.1;  
1565 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
1566 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
1567 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
1568 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
1569 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
1570 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
1571 Conspiracy, as set out in § 18.2-256;  
1572 Attempts, as set out in § 18.2-257;  
1573 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
1574 in § 18.2-258;  
1575 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
1576 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
1577 as set out in § 18.2-258.1; or  
1578 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
1579 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
1580 Possession of controlled substances, as set out in § 18.2-250;  
1581 Possession of flunitrazepam, as set out in § 18.2-251.2;  
1582 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
1583 Conspiracy, as set out in § 18.2-256; or  
1584 Attempts, as set out in § 18.2-257;  
1585 5. Crimes involving health or safety, or an equivalent offense in another state:  
1586 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
1587 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
1588 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
1589 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
1590 of § 18.2-300; or  
1591 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
1592 6. Crimes involving morals and decency, or an equivalent offense in another state:  
1593 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
1594 Crimes against nature, as set out in § 18.2-361, involving children;  
1595 Incest, as set out in § 18.2-366;  
1596 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;

Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 Abuse or neglect of children, as set out in § 18.2-371.1;  
 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 Possession, reproduction, distribution, or facilitation of child pornography, as set out in § 18.2-374.1.1;  
 Use of communications systems to facilitate certain crimes involving children, as set out in § 18.2-374.3;  
 Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third or subsequent conviction, when as a result of such third or subsequent conviction the individual is required to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 Escape from jail, as set out in § 18.2-477;  
 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have elapsed between the date of conviction and the date of application.  
 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. 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.  
 E. 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 been convicted of a crime listed in subsection B or adjudicated delinquent if such delinquency was based on a crime listed in subsection B and that crime would have been a felony if committed by an adult, 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.  
 F. 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:

1. *Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*

*Possession of controlled substances, as set out in § 18.2-250;*

*Possession of flunitrazepam, as set out in § 18.2-251.2;*

*Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*

*Conspiracy, as set out in § 18.2-256; or*

*Attempts, as set out in § 18.2-257;*

2. *A misdemeanor offense relating to arson, or an equivalent offense in another state:*

*Burning or destroying dwelling house, etc., as set out in § 18.2-77;*

*Burning or destroying meeting house, etc., as set out in § 18.2-79;*

*Burning or destroying any other building or structure, as set out in § 18.2-80;*

*Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*

*Burning building or structure while in such building or structure with intent to commit a felony, as set out in § 18.2-82;*

*Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc., as set out in § 18.2-83;*

*Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*

*Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in § 18.2-85;*

*Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*

*Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in § 18.2-87;*

*Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in § 18.2-87.1; or*

*Carelessly damaging property by fire, as set out in § 18.2-88.*

**§ 63.2-1601.1. Criminal history check for agency approved providers of services to adults.**

A. Each local board shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange of any individual the local board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on all adult household members residing in the home of the individual with whom the adult is to be placed. The local board shall not hire for compensated employment any persons who have been convicted of an offense as defined in § 63.2-1719 any of the following or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult:

1. *Crimes against the person, or an equivalent offense in another state:*

*Capital murder, as set out in § 18.2-31;*

*First or second degree murder, as set out in § 18.2-32;*

*Murder of a pregnant woman, as set out in § 18.2-32.1;*

*Killing of a fetus, as set out in § 18.2-32.2;*

*Felony homicide, as set out in § 18.2-33;*

*Voluntary manslaughter, as set out in § 18.2-35;*

*Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

*Malicious wounding by mob, as set out in § 18.2-41;*

*Assault or battery by mob, as set out in § 18.2-42;*

*Abduction, as set out in subsection A or B of § 18.2-47;*

*Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

*Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*

*Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;*

*Aggravated malicious wounding, as set out in § 18.2-51.2;*

*Reckless endangerment, as set out in § 18.2-51.3;*

*Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*

*Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;*

*Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;*

*Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*

*Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*

- 1720 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
- 1721 *Attempts to poison, as set out in § 18.2-54.1;*
- 1722 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*
- 1723 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
- 1724 *probationers, or adult parolees, as set out in § 18.2-55;*
- 1725 *Hazing of youth gang members, as set out in § 18.2-55.1;*
- 1726 *Hazing, as set out in § 18.2-56;*
- 1727 *Reckless handling of firearms, as set out in § 18.2-56.1;*
- 1728 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
- 1729 *Assault and battery, as set out in § 18.2-57;*
- 1730 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
- 1731 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
- 1732 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
- 1733 *Robbery, as set out in § 18.2-58;*
- 1734 *Carjacking, as set out in § 18.2-58.1;*
- 1735 *Extortion by threat, as set out in § 18.2-59;*
- 1736 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 1737 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 1738 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 1739 *Rape, as set out in § 18.2-61;*
- 1740 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 1741 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 1742 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 1743 *set out in § 18.2-64.2;*
- 1744 *Forcible sodomy, as set out in § 18.2-67.1;*
- 1745 *Object sexual penetration, as set out in § 18.2-67.2;*
- 1746 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 1747 *Sexual battery, as set out in § 18.2-67.4;*
- 1748 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 1749 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 1750 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 1751 *battery, as set out in § 18.2-67.5;*
- 1752 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*
- 1753 *or*
- 1754 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 1755 *2. Crimes against property, or an equivalent offense in another state:*
- 1756 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 1757 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 1758 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 1759 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 1760 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 1761 *set out in § 18.2-82;*
- 1762 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 1763 *such buildings, etc., as set out in § 18.2-83;*
- 1764 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 1765 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 1766 *§ 18.2-85;*
- 1767 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 1768 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 1769 *§ 18.2-87;*
- 1770 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
- 1771 *18.2-87.1;*
- 1772 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 1773 *Burglary, as set out in § 18.2-89;*
- 1774 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 1775 *§ 18.2-90;*
- 1776 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 1777 *set out in § 18.2-91;*
- 1778 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
- 1779 *18.2-92;*
- 1780 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*

1781 Possession of burglarious tools, etc., as set out in § 18.2-94;  
 1782 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with  
 1783 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:  
 1784 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 1785 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;  
 1786 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;  
 1787 Allowing a minor or incapacitated person to be present during manufacture or attempted  
 1788 manufacture of methamphetamine, as set out in § 18.2-248.02;  
 1789 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 1790 distribute methamphetamine, as set out in § 18.2-248.03;  
 1791 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out  
 1792 in § 18.2-248.1;  
 1793 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 1794 distribute synthetic cannabinoids as set out in § 18.2-248.1.1;  
 1795 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 1796 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 1797 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 1798 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 1799 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 1800 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 1801 Conspiracy, as set out in § 18.2-256;  
 1802 Attempts, as set out in § 18.2-257;  
 1803 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 1804 in § 18.2-258;  
 1805 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 1806 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 1807 as set out in § 18.2-258.1; or  
 1808 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 1809 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
 1810 Possession of controlled substances, as set out in § 18.2-250;  
 1811 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 1812 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 1813 Conspiracy, as set out in § 18.2-256; or  
 1814 Attempts, as set out in § 18.2-257;  
 1815 5. Crimes involving health or safety, or an equivalent offense in another state:  
 1816 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 1817 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 1818 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 1819 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
 1820 of § 18.2-300; or  
 1821 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 1822 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 1823 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 1824 Crimes against nature, as set out in § 18.2-361, involving children;  
 1825 Incest, as set out in § 18.2-366;  
 1826 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 1827 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 1828 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 1829 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
 1830 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
 1831 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
 1832 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 1833 Abuse or neglect of children, as set out in § 18.2-371.1;  
 1834 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 1835 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
 1836 § 18.2-374.1.1;  
 1837 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 1838 18.2-374.3;  
 1839 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 1840 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 1841 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 1842 or subsequent conviction, when as a result of such third or subsequent conviction the individual is

required to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

7. Crimes against the administration of justice, or an equivalent offense in another state:

Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or

Escape from jail, as set out in § 18.2-477;

8. Any felony offense by prisoners as set out in § 53.1-203; or

9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have elapsed between the date of conviction and the date of application. If approval as an agency approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local board, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the criminal history record information is prohibited.

B. In emergency circumstances, each local board may obtain from a criminal justice agency the criminal history record information from the Central Criminal Records Exchange for the criminal records search authorized by this section. The provision of home-based services shall be immediately terminated or the adult shall be removed from the home immediately, if any adult resident has been convicted of a barrier crime as described in § 63.2-1719 subsection A.

**§ 63.2-1704. Voluntary registration of family day homes; inspections; investigation upon receipt of complaint; revocation or suspension of registration.**

A. Any person who maintains a family day home serving fewer than six children, exclusive of the provider's own children and any children who reside in the home, may apply for voluntary registration. An applicant for voluntary registration shall file with the Commissioner, prior to beginning any such operation and thereafter biennially, an application which shall include, but not be limited to, the following:

1. The name, address, phone number, and social security number of the person maintaining the family day home;

2. The number and ages of the children to receive care;

3. A sworn statement or affirmation in which the applicant attests to the accuracy of the information submitted to the Commissioner; and

4. Documentation that the background check requirements for registered child welfare agencies in Article 3 (§ 63.2-1719 63.2-1720 et seq.) of this chapter have been met.

B. The Board shall adopt regulations for voluntarily registered family day homes that include, but are not limited to:

1. The criteria and process for the approval of the certificate of registration;

2. Requirements for a self-administered health and safety guidelines evaluation checklist;

3. A schedule for fees to be paid by the providers to the contract organization or to the Department if it implements the provisions of this section for processing applications for the voluntary registration of family day homes. The charges collected shall be maintained for the purpose of recovering administrative costs incurred in processing applications and certifying such homes as eligible or registered;

4. The criteria and process for the renewal of the certificate of registration; and

5. The requirement that upon receipt of a complaint concerning a registered family day home, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, and facilities. The person who maintains such home shall afford the Commissioner reasonable opportunity to inspect the operator's facilities and records and to interview any employees and any child or other person within his custody or control. Whenever a registered family day home is determined by the Commissioner to be in noncompliance with the regulations for voluntarily registered family day homes, the Commissioner shall give reasonable notice to the operator of the nature of the noncompliance and may thereafter revoke or suspend the registration.

C. Upon receiving the application on forms prescribed by the Commissioner, and after having determined that the home has satisfied the requirements of the regulations for voluntarily registered family day homes, the Commissioner shall issue a certificate of registration to the family day home.

D. The Commissioner shall contract in accordance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) with qualified local agencies and community organizations to review applications and certify family day homes as eligible for registration, pursuant to the regulations for voluntarily registered family day homes. If no qualified local agencies or community organizations are available, the Commissioner shall implement the provisions of this section. "Qualified" means demonstrated ability to provide sound financial management and administrative services including application processing, maintenance of records and reports, technical assistance, consultation, training, monitoring, and random inspections.

E. The scope of services in contracts shall include:

1. The identification of family day homes which may meet the standards for voluntary registration

1904 provided in subsection A; and

1905 2. A requirement that the contract organization shall provide administrative services, including, but  
1906 not limited to, processing applications for the voluntary registration of family day homes; certifying such  
1907 homes as eligible for registration; providing technical assistance, training and consultation with family  
1908 day homes; ensuring providers' compliance with the regulations for voluntarily registered family day  
1909 homes, including monitoring and random inspections; and maintaining permanent records regarding all  
1910 family day homes which it may certify as eligible for registration.

1911 F. The contract organization, upon determining that a family day home has satisfied the requirements  
1912 of the regulations for voluntarily registered family day homes, shall certify the home as eligible for  
1913 registration on forms prescribed by the Commissioner. The Commissioner, upon determining that  
1914 certification has been properly issued, may register the family day home.

1915 G. The provisions of this section shall not apply to any family day home located in a county, city, or  
1916 town in which the governing body provides by ordinance for the regulation and licensing of persons  
1917 who provide child-care services for compensation and for the regulation and licensing of child-care  
1918 facilities pursuant to the provisions of § 15.2-914.

1919 **§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited**  
1920 **private schools; provisional certification; annual statement and documentary evidence required;**  
1921 **enforcement; injunctive relief.**

1922 A. A preschool or nursery school program operated by a private school accredited by a statewide  
1923 accrediting organization recognized by the Board of Education or a private school or preschool that  
1924 offers to preschool-aged children a program accredited by the National Association for the Education of  
1925 Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools  
1926 International; the American Association of Christian Schools; the National Early Childhood Program  
1927 Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and  
1928 Programs; the International Academy for Private Education; the American Montessori Society; the  
1929 International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the  
1930 National Accreditation Commission and is recognized by the Board of Education, shall be exempt from  
1931 licensure under this subtitle if it complies with the provisions of this section and meets the requirements  
1932 of subsection B, C or D.

1933 B. A school described in subsection A shall meet the following conditions in order to be exempt  
1934 under this subsection:

1935 1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory  
1936 school attendance laws, and children below the age of compulsory school attendance also participate in  
1937 such instructional programs;

1938 2. The instructional programs for children of and below the age of eligibility for school attendance  
1939 share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction,  
1940 and (iv) professional training and individual teacher certification standards, all of which are required by  
1941 a state-recognized accrediting organization;

1942 3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of  
1943 three-year-old to six-year-old children and the number of pupils in the preschool program does not  
1944 exceed 15 pupils for each instructional adult;

1945 4. The instructional program contemplates a three-to-four-year learning cycle under a common  
1946 pedagogy; and

1947 5. Children below the age of eligibility for kindergarten attendance do not attend the instructional  
1948 program for more than four hours per day.

1949 C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment  
1950 ratio at any one time during the current school year of five children age five or above to one  
1951 four-year-old child as long as no child in attendance is under age four and the number of pupils in the  
1952 preschool program does not exceed 12 pupils for each instructional adult.

1953 D. A private school or preschool described in subsection A shall meet the following conditions in  
1954 order to be exempt under this subsection:

1955 1. The school offers instructional classes and has been in operation since January 1984.

1956 2. The school does not hold itself out as a child care center, child day center, or child day program.

1957 3. Children enrolled in the school are at least three years of age and do not attend more than (i)  
1958 three hours per day and (ii) five days per week.

1959 4. The enrolled children attend only one program offered by the school per day.

1960 5. The school maintains a certificate or permit issued pursuant to a local government ordinance that  
1961 addresses health, safety and welfare of the children, such as but not limited to space requirements, and  
1962 requires annual inspections.

1963 E. The school shall file with the Commissioner, prior to the beginning of the school year or calendar  
1964 year, as the case may be, and thereafter, annually, a statement which includes the following:

1965 1. Intent to operate a certified preschool program;



- 1966 2. Documentary evidence that the school has been accredited as provided in subsection A;  
 1967 3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having  
 1968 charge of a child enrolled in the school's preschool program the fact of the program's exemption from  
 1969 licensure;  
 1970 4. Documentary evidence that the physical facility in which the preschool program will be conducted  
 1971 has been inspected (i) before initial certification by the local building official and (ii) within the  
 1972 12-month period prior to initial certification and at least annually thereafter by the local health  
 1973 department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an  
 1974 inspection report which documents that the facility is in compliance with applicable laws and regulations  
 1975 pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire  
 1976 Prevention Code or the Uniform Statewide Building Code;  
 1977 5. Documentation that the school has disclosed the following in writing to the parents, guardians, or  
 1978 persons having charge of a child enrolled in the school's preschool program, and in a written statement  
 1979 available to the general public: (i) the school facility is in compliance with applicable laws and  
 1980 regulations pertaining to food services, health and sanitation, water supply, building codes, and the  
 1981 Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's  
 1982 maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff  
 1983 health requirements, and (iv) a description of the school's public liability insurance, if any;  
 1984 6. Qualifications of school personnel who work in the preschool program; and  
 1985 7. Documentary evidence that the private school requires all employees of the preschool and other  
 1986 school employees who have contact with the children enrolled in the preschool program to obtain a  
 1987 criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or  
 1988 continued employment. The school shall not hire or continue employment of any such person who has  
 1989 ~~an offense specified in § 63.2-1719~~ been convicted of any of the following or adjudicated delinquent  
 1990 based on one of the following if such delinquency was based on a crime that would have been a felony  
 1991 if committed by an adult:  
 1992 1. Crimes against the person, or an equivalent offense in another state:  
 1993 Capital murder, as set out in § 18.2-31;  
 1994 First or second degree murder, as set out in § 18.2-32;  
 1995 Murder of a pregnant woman, as set out in § 18.2-32.1;  
 1996 Killing of a fetus, as set out in § 18.2-32.2;  
 1997 Felony homicide, as set out in § 18.2-33;  
 1998 Voluntary manslaughter, as set out in § 18.2-35;  
 1999 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;  
 2000 Malicious wounding by mob, as set out in § 18.2-41;  
 2001 Assault or battery by mob, as set out in § 18.2-42;  
 2002 Abduction, as set out in subsection A or B of § 18.2-47;  
 2003 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;  
 2004 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;  
 2005 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or  
 2006 emergency medical service providers, as set out in § 18.2-51.1;  
 2007 Aggravated malicious wounding, as set out in § 18.2-51.2;  
 2008 Reckless endangerment, as set out in § 18.2-51.3;  
 2009 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;  
 2010 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
 2011 § 18.2-51.5;  
 2012 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 2013 as set out in § 18.2-52;  
 2014 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
 2015 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
 2016 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
 2017 Attempts to poison, as set out in § 18.2-54.1;  
 2018 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
 2019 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 2020 probationers, or adult parolees, as set out in § 18.2-55;  
 2021 Hazing of youth gang members, as set out in § 18.2-55.1;  
 2022 Hazing, as set out in § 18.2-56;  
 2023 Reckless handling of firearms, as set out in § 18.2-56.1;  
 2024 Allowing access to firearms by children, as set out in § 18.2-56.2;  
 2025 Assault and battery, as set out in § 18.2-57;  
 2026 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;

- 2027 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*  
 2028 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*  
 2029 *Robbery, as set out in § 18.2-58;*  
 2030 *Carjacking, as set out in § 18.2-58.1;*  
 2031 *Extortion by threat, as set out in § 18.2-59;*  
 2032 *Threat of death or bodily injury, as set out in § 18.2-60;*  
 2033 *Any felony stalking offense, as set out in § 18.2-60.3;*  
 2034 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*  
 2035 *Rape, as set out in § 18.2-61;*  
 2036 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*  
 2037 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*  
 2038 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*  
 2039 *set out in § 18.2-64.2;*  
 2040 *Forcible sodomy, as set out in § 18.2-67.1;*  
 2041 *Object sexual penetration, as set out in § 18.2-67.2;*  
 2042 *Aggravated sexual battery, as set out in § 18.2-67.3;*  
 2043 *Sexual battery, as set out in § 18.2-67.4;*  
 2044 *Infected sexual battery, as set out in § 18.2-67.4.1;*  
 2045 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*  
 2046 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*  
 2047 *battery, as set out in § 18.2-67.5;*  
 2048 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*  
 2049 *or*  
 2050 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*  
 2051 *2. Crimes against property, or an equivalent offense in another state:*  
 2052 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*  
 2053 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*  
 2054 *Burning or destroying any other building or structure, as set out in § 18.2-80;*  
 2055 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*  
 2056 *Burning building or structure while in such building or structure with intent to commit a felony, as*  
 2057 *set out in § 18.2-82;*  
 2058 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*  
 2059 *such buildings, etc., as set out in § 18.2-83;*  
 2060 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*  
 2061 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*  
 2062 *§ 18.2-85;*  
 2063 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
 2064 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
 2065 *§ 18.2-87;*  
 2066 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 2067 *18.2-87.1;*  
 2068 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 2069 *Burglary, as set out in § 18.2-89;*  
 2070 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*  
 2071 *§ 18.2-90;*  
 2072 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 2073 *set out in § 18.2-91;*  
 2074 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 2075 *18.2-92;*  
 2076 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 2077 *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 2078 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 2079 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 2080 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2081 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 2082 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 2083 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 2084 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 2085 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2086 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 2087 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 2088 *in § 18.2-248.1;*

2089 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 2090 distribute synthetic cannabinoids as set out in § 18.2-248.1.1;  
 2091 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 2092 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 2093 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 2094 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 2095 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 2096 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 2097 Conspiracy, as set out in § 18.2-256;  
 2098 Attempts, as set out in § 18.2-257;  
 2099 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 2100 in § 18.2-258;  
 2101 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 2102 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 2103 as set out in § 18.2-258.1; or  
 2104 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 2105 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
 2106 Possession of controlled substances, as set out in § 18.2-250;  
 2107 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 2108 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 2109 Conspiracy, as set out in § 18.2-256; or  
 2110 Attempts, as set out in § 18.2-257;  
 2111 5. Crimes involving health or safety, or an equivalent offense in another state:  
 2112 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 2113 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 2114 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 2115 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
 2116 of § 18.2-300; or  
 2117 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 2118 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 2119 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 2120 Crimes against nature, as set out in § 18.2-361, involving children;  
 2121 Incest, as set out in § 18.2-366;  
 2122 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 2123 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 2124 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 2125 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
 2126 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
 2127 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
 2128 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 2129 Abuse or neglect of children, as set out in § 18.2-371.1;  
 2130 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 2131 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
 2132 § 18.2-374.1.1;  
 2133 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 2134 18.2-374.3;  
 2135 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 2136 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 2137 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 2138 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
 2139 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
 2140 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 2141 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 2142 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 2143 Escape from jail, as set out in § 18.2-477;  
 2144 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 2145 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have  
 2146 elapsed between the date of conviction and the date of application.  
 2147 All accredited private schools seeking certification of preschool programs shall file such information  
 2148 on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of  
 2149 accredited private schools which comply with the provisions of subsection A.

2150 F. A preschool program of a private school that has not been accredited as provided in subsection A,  
2151 or which has not provided documentation to the Commissioner that it has initiated the accreditation  
2152 process, shall be subject to licensure.

2153 The Commissioner shall issue a provisional certificate to a private school which provides  
2154 documentation to the Commissioner that it has initiated the accreditation process. The provisional  
2155 certificate shall permit the school to operate its preschool program during the accreditation process  
2156 period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A  
2157 provisional certificate may be renewed up to an additional year if the accrediting organization provides a  
2158 statement indicating it has visited the school within the previous six months and the school has made  
2159 sufficient progress. Such programs shall not be subject to licensure during the provisional certification  
2160 period.

2161 G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner  
2162 shall revoke the provisional certification and the program shall thereafter be subject to licensure.

2163 H. If the preschool program of a private school which is accredited as provided in subsection A fails  
2164 to file the statement and the required documentary evidence, the Commissioner shall notify the school of  
2165 its noncompliance and may thereafter take such action as he determines appropriate, including notice  
2166 that the program is required to be licensed.

2167 I. The revocation or denial of the certification of a preschool program shall be subject to appeal  
2168 pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a  
2169 final agency decision shall be in accordance with the provisions of the Administrative Process Act.

2170 J. Any person who has reason to believe that a private school falling within the provisions of this  
2171 section is in noncompliance with any applicable requirement of this section may report the same to the  
2172 Department, the local department, the local health department, or the local fire marshal, each of which  
2173 may inspect the school for noncompliance, give reasonable notice to the school of the nature of its  
2174 noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin  
2175 the operation of the preschool program.

2176 K. Upon receipt of a complaint concerning a certified preschool program of an accredited private  
2177 school, or of a private school to which provisional certification has been issued, if for good cause shown  
2178 there is reason to suspect that the school is in noncompliance with any provision of this section or the  
2179 health or safety of the children attending the preschool program is in danger, the Commissioner shall  
2180 cause an investigation to be made, including on-site visits as he deems necessary of the services,  
2181 personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable  
2182 opportunity to inspect the school's program, records, and facility, and to interview the employees and  
2183 any child or parent or guardian of a child who is or has been enrolled in the preschool program. If,  
2184 upon completion of the investigation, it is determined that the school is in noncompliance with the  
2185 provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of  
2186 its noncompliance and thereafter may take appropriate action as provided by law, including a suit to  
2187 enjoin the operation of the preschool program.

2188 L. Failure of a private school to comply with the provisions of this section, or a finding that the  
2189 health and safety of the children attending the preschool program are in clear and substantial danger  
2190 upon the completion of an investigation, shall be grounds for revocation of the certification issued  
2191 pursuant to this section.

2192 M. If a private school operates a child day program outside the scope of its instructional classes  
2193 during the school year or operates a child day program during the summer, the child day program shall  
2194 be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

2195 N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of  
2196 a private school from obtaining a license pursuant to this subtitle.

2197 **§ 63.2-1720. Employment for compensation of persons or use of volunteers convicted of certain**  
2198 **offenses prohibited; background check required; penalty.**

2199 A. An assisted living facility; or adult day care center ~~or~~ licensed in accordance with the provisions  
2200 of this chapter shall not hire for compensated employment persons who have been convicted of:

2201 1. Crimes against the person, or an equivalent offense in another state:

2202 Capital murder, as set out in § 18.2-31;

2203 First or second degree murder, as set out in § 18.2-32;

2204 Murder of a pregnant woman, as set out in § 18.2-32.1;

2205 Killing of a fetus, as set out in § 18.2-32.2;

2206 Felony homicide, as set out in § 18.2-33;

2207 Voluntary manslaughter, as set out in § 18.2-35;

2208 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;

2209 Malicious wounding by mob, as set out in § 18.2-41;

2210 Abduction, as set out in subsection A or B of § 18.2-47;

2211 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;

- 2212 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 2213 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 2214 emergency medical service providers, as set out in § 18.2-51.1;
- 2215 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 2216 Reckless endangerment, as set out in § 18.2-51.3;
- 2217 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 2218 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 2219 § 18.2-51.5;
- 2220 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 2221 as set out in § 18.2-52;
- 2222 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 2223 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 2224 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 2225 Attempts to poison, as set out in § 18.2-54.1;
- 2226 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 2227 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 2228 probationers, or adult parolees, as set out in § 18.2-55;
- 2229 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2230 Hazing, as set out in § 18.2-56;
- 2231 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2232 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2233 Assault and battery, as set out in § 18.2-57;
- 2234 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2235 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2236 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2237 Robbery, as set out in § 18.2-58;
- 2238 Carjacking, as set out in § 18.2-58.1;
- 2239 Extortion by threat, as set out in § 18.2-59;
- 2240 Threat of death or bodily injury, as set out in § 18.2-60;
- 2241 Any felony stalking offense, as set out in § 18.2-60.3;
- 2242 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2243 Rape, as set out in § 18.2-61;
- 2244 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2245 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2246 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2247 set out in § 18.2-64.2;
- 2248 Forcible sodomy, as set out in § 18.2-67.1;
- 2249 Object sexual penetration, as set out in § 18.2-67.2;
- 2250 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2251 Sexual battery, as set out in § 18.2-67.4;
- 2252 Infected sexual battery, as set out in § 18.2-67.4.1;
- 2253 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 2254 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2255 battery, as set out in § 18.2-67.5;
- 2256 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 2257 or
- 2258 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 2259 2. Crimes against property, or an equivalent offense in another state:
- 2260 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2261 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2262 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2263 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2264 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2265 set out in § 18.2-82;
- 2266 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2267 such buildings, etc., as set out in § 18.2-83;
- 2268 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2269 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 2270 § 18.2-85;
- 2271 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 2272 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in

- 2273 § 18.2-87;  
 2274 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 2275 *18.2-87.1;*  
 2276 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 2277 *3. Crimes involving health or safety, or an equivalent offense in another state:*  
 2278 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 2279 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 2280 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 2281 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 2282 *of § 18.2-300; or*  
 2283 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 2284 *4. Crimes involving morals and decency, or an equivalent offense in another state:*  
 2285 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 2286 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 2287 *Incest, as set out in § 18.2-366;*  
 2288 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 2289 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 2290 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 2291 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 2292 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
 2293 *§ 18.2-374.1.1;*  
 2294 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
 2295 *18.2-374.3; or*  
 2296 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
 2297 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*  
 2298 *5. Crimes against the administration of justice, or an equivalent offense in another state:*  
 2299 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*  
 2300 *Escape from jail, as set out in § 18.2-477; or*  
 2301 *6. Any felony offense by prisoners as set out in § 53.1-203.*  
 2302 *A child welfare agency licensed or registered in accordance with the provisions of this chapter, or*  
 2303 *family day homes approved by family day systems, shall not hire for compensated employment persons*  
 2304 *who have an offense as defined in § 63.2-1719 been convicted of the following or adjudicated*  
 2305 *delinquent based on one of the following if such delinquency was based on a crime that would have*  
 2306 *been a felony if committed by an adult:*  
 2307 *1. Crimes against the person, or an equivalent offense in another state:*  
 2308 *Capital murder, as set out in § 18.2-31;*  
 2309 *First or second degree murder, as set out in § 18.2-32;*  
 2310 *Murder of a pregnant woman, as set out in § 18.2-32.1;*  
 2311 *Killing of a fetus, as set out in § 18.2-32.2;*  
 2312 *Felony homicide, as set out in § 18.2-33;*  
 2313 *Voluntary manslaughter, as set out in § 18.2-35;*  
 2314 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*  
 2315 *Malicious wounding by mob, as set out in § 18.2-41;*  
 2316 *Assault or battery by mob, as set out in § 18.2-42;*  
 2317 *Abduction, as set out in subsection A or B of § 18.2-47;*  
 2318 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*  
 2319 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*  
 2320 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*  
 2321 *emergency medical service providers, as set out in § 18.2-51.1;*  
 2322 *Aggravated malicious wounding, as set out in § 18.2-51.2;*  
 2323 *Reckless endangerment, as set out in § 18.2-51.3;*  
 2324 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*  
 2325 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*  
 2326 *§ 18.2-51.5;*  
 2327 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*  
 2328 *as set out in § 18.2-52;*  
 2329 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*  
 2330 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*  
 2331 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*  
 2332 *Attempts to poison, as set out in § 18.2-54.1;*  
 2333 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*  
 2334 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*

- 2335 probationers, or adult parolees, as set out in § 18.2-55;
- 2336 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2337 Hazing, as set out in § 18.2-56;
- 2338 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2339 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2340 Assault and battery, as set out in § 18.2-57;
- 2341 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2342 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2343 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2344 Robbery, as set out in § 18.2-58;
- 2345 Carjacking, as set out in § 18.2-58.1;
- 2346 Extortion by threat, as set out in § 18.2-59;
- 2347 Threat of death or bodily injury, as set out in § 18.2-60;
- 2348 Any felony stalking offense, as set out in § 18.2-60.3;
- 2349 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2350 Rape, as set out in § 18.2-61;
- 2351 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2352 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2353 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2354 set out in § 18.2-64.2;
- 2355 Forcible sodomy, as set out in § 18.2-67.1;
- 2356 Object sexual penetration, as set out in § 18.2-67.2;
- 2357 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2358 Sexual battery, as set out in § 18.2-67.4;
- 2359 Infected sexual battery, as set out in § 18.2-67.4:1;
- 2360 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;
- 2361 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2362 battery, as set out in § 18.2-67.5;
- 2363 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;
- 2364 or
- 2365 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;
- 2366 2. Crimes against property, or an equivalent offense in another state:
- 2367 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2368 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2369 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2370 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2371 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2372 set out in § 18.2-82;
- 2373 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2374 such buildings, etc., as set out in § 18.2-83;
- 2375 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2376 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 2377 § 18.2-85;
- 2378 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 2379 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
- 2380 § 18.2-87;
- 2381 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
- 2382 18.2-87.1;
- 2383 Carelessly damaging property by fire, as set out in § 18.2-88;
- 2384 Burglary, as set out in § 18.2-89;
- 2385 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
- 2386 § 18.2-90;
- 2387 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
- 2388 set out in § 18.2-91;
- 2389 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §
- 2390 18.2-92;
- 2391 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
- 2392 Possession of burglarious tools, etc., as set out in § 18.2-94;
- 2393 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
- 2394 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
- 2395 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or

2396 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 2397 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 2398 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 2399 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 2400 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2401 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 2402 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 2403 *in § 18.2-248.1;*  
 2404 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2405 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*  
 2406 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2407 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*  
 2408 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*  
 2409 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2410 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*  
 2411 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*  
 2412 *Conspiracy, as set out in § 18.2-256;*  
 2413 *Attempts, as set out in § 18.2-257;*  
 2414 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*  
 2415 *in § 18.2-258;*  
 2416 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*  
 2417 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*  
 2418 *as set out in § 18.2-258.1; or*  
 2419 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*  
 2420 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*  
 2421 *Possession of controlled substances, as set out in § 18.2-250;*  
 2422 *Possession of flunitrazepam, as set out in § 18.2-251.2;*  
 2423 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2424 *Conspiracy, as set out in § 18.2-256; or*  
 2425 *Attempts, as set out in § 18.2-257;*  
 2426 *5. Crimes involving health or safety, or an equivalent offense in another state:*  
 2427 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 2428 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 2429 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 2430 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 2431 *of § 18.2-300; or*  
 2432 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 2433 *6. Crimes involving morals and decency, or an equivalent offense in another state:*  
 2434 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 2435 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 2436 *Incest, as set out in § 18.2-366;*  
 2437 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 2438 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 2439 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*  
 2440 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*  
 2441 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*  
 2442 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*  
 2443 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*  
 2444 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 2445 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 2446 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
 2447 *§ 18.2-374.1.1;*  
 2448 *Use of communications systems to facilitate certain crimes involving children, as set out in*  
 2449 *§ 18.2-374.3;*  
 2450 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
 2451 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*  
 2452 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*  
 2453 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*  
 2454 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*  
 2455 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*  
 2456 *7. Crimes against the administration of justice, or an equivalent offense in another state:*  
 2457 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*



*Escape from jail, as set out in § 18.2-477;*

*8. Any felony offense by prisoners as set out in § 53.1-203; or*

*9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have elapsed between the date of conviction and the date of application.*

Such employees shall undergo background checks pursuant to subsection D. 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 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;

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

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

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

G. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a licensed or registered child welfare agency or a family day home approved by a family day system. Any person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection 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 a licensed or registered child welfare agency, or a 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. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

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

2519 pursuant to this section.

2520 I. Further dissemination of the background check information is prohibited other than to the  
2521 Commissioner's representative or a federal or state authority or court as may be required to comply with  
2522 an express requirement of law for such further dissemination.

2523 J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of  
2524 this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living  
2525 facility.

2526 K. The provisions of this section shall not apply to any children's residential facility licensed  
2527 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
2528 contained in § 63.2-1726.

2529 L. A person who complies in good faith with the provisions of this section shall not be liable for any  
2530 civil damages for any act or omission in the performance of duties under this section unless the act or  
2531 omission was the result of gross negligence or willful misconduct.

2532 **§ 63.2-1721. Background check upon application for licensure or registration as child welfare**  
2533 **agency; background check of foster or adoptive parents approved by child-placing agencies and**  
2534 **family day homes approved by family day systems; penalty.**

2535 A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii)  
2536 agents at the time of application who are or will be involved in the day-to-day operations of the child  
2537 welfare agency or who are or will be alone with, in control of, or supervising one or more of the  
2538 children; and (iii) any other adult living in the home of an applicant for licensure or registration as a  
2539 family day home shall undergo a background check. Upon application for licensure as an assisted living  
2540 facility, all applicants shall undergo a background check. In addition, foster or adoptive parents  
2541 requesting approval by child-placing agencies and operators of family day homes requesting approval by  
2542 family day systems, and any other adult residing in the family day home or existing employee or  
2543 volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to  
2544 their approval.

2545 B. Background checks pursuant to this section require:

2546 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the  
2547 subject of any pending criminal charges within or outside the Commonwealth and whether or not the  
2548 person has been the subject of a founded complaint of child abuse or neglect within or outside the  
2549 Commonwealth;

2550 2. A criminal history record check through the Central Criminal Records Exchange pursuant to  
2551 § 19.2-389; and

2552 3. In the case of child welfare agencies or adoptive or foster parents, a search of the central registry  
2553 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

2554 C. The character and reputation investigation pursuant to § 63.2-1702 shall include background  
2555 checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the  
2556 background check information required in subsection B to the Commissioner's representative prior to  
2557 issuance of a license, registration or approval. The applicant shall provide an original criminal record  
2558 clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from  
2559 the Central Criminal Records Exchange. Any person making a materially false statement regarding the  
2560 sworn statement or affirmation provided pursuant to subdivision B 1 shall be guilty of a Class 1  
2561 misdemeanor. *If The Commissioner shall not issue a license or registration as a child welfare agency to*  
2562 *and a family day system shall not approve as a family day home an applicant if any person specified in*  
2563 *subsection A required to have a background check has any offense as defined in § 63.2-1719 been*  
2564 *convicted of any of the following or adjudicated delinquent based on one of the following if such*  
2565 *delinquency was based on a crime that would have been a felony if committed by an adult, and such*  
2566 *person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to*  
2567 *an exception in subsections E, F, or G (i) the Commissioner shall not issue a license or registration to a*  
2568 *child welfare agency; (ii) the:*

2569 1. *Crimes against the person, or an equivalent offense in another state:*

2570 *Capital murder, as set out in § 18.2-31;*

2571 *First or second degree murder, as set out in § 18.2-32;*

2572 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

2573 *Killing of a fetus, as set out in § 18.2-32.2;*

2574 *Felony homicide, as set out in § 18.2-33;*

2575 *Voluntary manslaughter, as set out in § 18.2-35;*

2576 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

2577 *Malicious wounding by mob, as set out in § 18.2-41;*

2578 *Assault or battery by mob, as set out in § 18.2-42;*

2579 *Abduction, as set out in subsection A or B of § 18.2-47;*

2580 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

2581 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;  
 2582 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or  
 2583 emergency medical service providers, as set out in § 18.2-51.1;  
 2584 Aggravated malicious wounding, as set out in § 18.2-51.2;  
 2585 Reckless endangerment, as set out in § 18.2-51.3;  
 2586 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;  
 2587 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
 2588 § 18.2-51.5;  
 2589 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 2590 as set out in § 18.2-52;  
 2591 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
 2592 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
 2593 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
 2594 Attempts to poison, as set out in § 18.2-54.1;  
 2595 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
 2596 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 2597 probationers, or adult parolees, as set out in § 18.2-55;  
 2598 Hazing of youth gang members, as set out in § 18.2-55.1;  
 2599 Hazing, as set out in § 18.2-56;  
 2600 Reckless handling of firearms, as set out in § 18.2-56.1;  
 2601 Allowing access to firearms by children, as set out in § 18.2-56.2;  
 2602 Assault and battery, as set out in § 18.2-57;  
 2603 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;  
 2604 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;  
 2605 Assault and battery against a family or household member, as set out in § 18.2-57.2;  
 2606 Robbery, as set out in § 18.2-58;  
 2607 Carjacking, as set out in § 18.2-58.1;  
 2608 Extortion by threat, as set out in § 18.2-59;  
 2609 Threat of death or bodily injury, as set out in § 18.2-60;  
 2610 Any felony stalking offense, as set out in § 18.2-60.3;  
 2611 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;  
 2612 Rape, as set out in § 18.2-61;  
 2613 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;  
 2614 Carnal knowledge of certain minors, as set out in § 18.2-64.1;  
 2615 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as  
 2616 set out in § 18.2-64.2;  
 2617 Forcible sodomy, as set out in § 18.2-67.1;  
 2618 Object sexual penetration, as set out in § 18.2-67.2;  
 2619 Aggravated sexual battery, as set out in § 18.2-67.3;  
 2620 Sexual battery, as set out in § 18.2-67.4;  
 2621 Infected sexual battery, as set out in § 18.2-67.4.1;  
 2622 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;  
 2623 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual  
 2624 battery, as set out in § 18.2-67.5;  
 2625 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or  
 2626 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;  
 2627 2. Crimes against property, or an equivalent offense in another state:  
 2628 Burning or destroying dwelling house, etc., as set out in § 18.2-77;  
 2629 Burning or destroying meeting house, etc., as set out in § 18.2-79;  
 2630 Burning or destroying any other building or structure, as set out in § 18.2-80;  
 2631 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;  
 2632 Burning building or structure while in such building or structure with intent to commit a felony, as  
 2633 set out in § 18.2-82;  
 2634 Threats to bomb or damage buildings or means of transportation; false information as to danger to  
 2635 such buildings, etc., as set out in § 18.2-83;  
 2636 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;  
 2637 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
 2638 § 18.2-85;  
 2639 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
 2640 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in  
 2641 § 18.2-87;

2642 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 2643 *18.2-87.1;*  
 2644 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 2645 *Burglary, as set out in § 18.2-89;*  
 2646 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*  
 2647 *§ 18.2-90;*  
 2648 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 2649 *set out in § 18.2-91;*  
 2650 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 2651 *18.2-92;*  
 2652 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 2653 *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 2654 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 2655 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 2656 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2657 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 2658 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 2659 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 2660 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 2661 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2662 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 2663 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 2664 *in § 18.2-248.1;*  
 2665 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2666 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*  
 2667 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2668 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*  
 2669 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*  
 2670 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2671 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*  
 2672 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*  
 2673 *Conspiracy, as set out in § 18.2-256;*  
 2674 *Attempts, as set out in § 18.2-257;*  
 2675 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*  
 2676 *in § 18.2-258;*  
 2677 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*  
 2678 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*  
 2679 *as set out in § 18.2-258.1; or*  
 2680 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*  
 2681 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*  
 2682 *Possession of controlled substances, as set out in § 18.2-250;*  
 2683 *Possession of flunitrazepam, as set out in § 18.2-251.2;*  
 2684 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2685 *Conspiracy, as set out in § 18.2-256; or*  
 2686 *Attempts, as set out in § 18.2-257;*  
 2687 *5. Crimes involving health or safety, or an equivalent offense in another state:*  
 2688 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 2689 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 2690 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 2691 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 2692 *of § 18.2-300; or*  
 2693 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 2694 *6. Crimes involving morals and decency, or an equivalent offense in another state:*  
 2695 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 2696 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 2697 *Incest, as set out in § 18.2-366;*  
 2698 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 2699 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 2700 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*  
 2701 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*  
 2702 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*  
 2703 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*

2704 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 2705 Abuse or neglect of children, as set out in § 18.2-371.1;  
 2706 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 2707 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
 2708 § 18.2-374.1.1;  
 2709 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 2710 18.2-374.3;  
 2711 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 2712 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 2713 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 2714 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
 2715 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
 2716 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 2717 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 2718 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 2719 Escape from jail, as set out in § 18.2-477;  
 2720 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 2721 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have  
 2722 elapsed between the date of conviction and the date of application.  
 2723 The Commissioner shall not issue a license to an assisted living facility; ~~(iii)~~ a if any person  
 2724 specified in subsection A required to have a background check has been convicted of any of the  
 2725 following:  
 2726 1. Crimes against the person, or an equivalent offense in another state:  
 2727 Capital murder, as set out in § 18.2-31;  
 2728 First or second degree murder, as set out in § 18.2-32;  
 2729 Murder of a pregnant woman, as set out in § 18.2-32.1;  
 2730 Killing of a fetus, as set out in § 18.2-32.2;  
 2731 Felony homicide, as set out in § 18.2-33;  
 2732 Voluntary manslaughter, as set out in § 18.2-35;  
 2733 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;  
 2734 Malicious wounding by mob, as set out in § 18.2-41;  
 2735 Abduction, as set out in subsection A or B of § 18.2-47;  
 2736 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;  
 2737 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;  
 2738 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or  
 2739 emergency medical service providers, as set out in § 18.2-51.1;  
 2740 Aggravated malicious wounding, as set out in § 18.2-51.2;  
 2741 Reckless endangerment, as set out in § 18.2-51.3;  
 2742 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;  
 2743 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
 2744 § 18.2-51.5;  
 2745 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 2746 as set out in § 18.2-52;  
 2747 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
 2748 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
 2749 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
 2750 Attempts to poison, as set out in § 18.2-54.1;  
 2751 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
 2752 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 2753 probationers, or adult parolees, as set out in § 18.2-55;  
 2754 Hazing of youth gang members, as set out in § 18.2-55.1;  
 2755 Hazing, as set out in § 18.2-56;  
 2756 Reckless handling of firearms, as set out in § 18.2-56.1;  
 2757 Allowing access to firearms by children, as set out in § 18.2-56.2;  
 2758 Assault and battery, as set out in § 18.2-57;  
 2759 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;  
 2760 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;  
 2761 Assault and battery against a family or household member, as set out in § 18.2-57.2;  
 2762 Robbery, as set out in § 18.2-58;  
 2763 Carjacking, as set out in § 18.2-58.1;  
 2764 Extortion by threat, as set out in § 18.2-59;

- 2765 *Threat of death or bodily injury, as set out in § 18.2-60;*  
 2766 *Any felony stalking offense, as set out in § 18.2-60.3;*  
 2767 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*  
 2768 *Rape, as set out in § 18.2-61;*  
 2769 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*  
 2770 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*  
 2771 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*  
 2772 *set out in § 18.2-64.2;*  
 2773 *Forcible sodomy, as set out in § 18.2-67.1;*  
 2774 *Object sexual penetration, as set out in § 18.2-67.2;*  
 2775 *Aggravated sexual battery, as set out in § 18.2-67.3;*  
 2776 *Sexual battery, as set out in § 18.2-67.4;*  
 2777 *Infected sexual battery, as set out in § 18.2-67.4.1;*  
 2778 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*  
 2779 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*  
 2780 *battery, as set out in § 18.2-67.5;*  
 2781 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*  
 2782 *or*  
 2783 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*  
 2784 *2. Crimes against property, or an equivalent offense in another state:*  
 2785 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*  
 2786 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*  
 2787 *Burning or destroying any other building or structure, as set out in § 18.2-80;*  
 2788 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*  
 2789 *Burning building or structure while in such building or structure with intent to commit a felony, as*  
 2790 *set out in § 18.2-82;*  
 2791 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*  
 2792 *such buildings, etc., as set out in § 18.2-83;*  
 2793 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*  
 2794 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*  
 2795 *§ 18.2-85;*  
 2796 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
 2797 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
 2798 *§ 18.2-87;*  
 2799 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 2800 *18.2-87.1;*  
 2801 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 2802 *3. Crimes involving health or safety, or an equivalent offense in another state:*  
 2803 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
 2804 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
 2805 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
 2806 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
 2807 *of § 18.2-300; or*  
 2808 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
 2809 *4. Crimes involving morals and decency, or an equivalent offense in another state:*  
 2810 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
 2811 *Crimes against nature, as set out in § 18.2-361, involving children;*  
 2812 *Incest, as set out in § 18.2-366;*  
 2813 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
 2814 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
 2815 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
 2816 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
 2817 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
 2818 *§ 18.2-374.1.1;*  
 2819 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
 2820 *18.2-374.3; or*  
 2821 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
 2822 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*  
 2823 *5. Crimes against the administration of justice, or an equivalent offense in another state:*  
 2824 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*  
 2825 *Escape from jail, as set out in § 18.2-477; or*  
 2826 *6. Any felony offense by prisoners as set out in § 53.1-203.*

A child-placing agency shall not approve an adoptive or foster home; ~~or (iv) a family day system shall not approve a family day home~~ if any person specified in subsection A required to have a background check has been convicted of any of the following or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult and such person is not subject to an exception in subsections E, F, or G:

1. Crimes against the person, or an equivalent offense in another state:
  - Capital murder, as set out in § 18.2-31;
  - First or second degree murder, as set out in § 18.2-32;
  - Murder of a pregnant woman, as set out in § 18.2-32.1;
  - Killing of a fetus, as set out in § 18.2-32.2;
  - Felony homicide, as set out in § 18.2-33;
  - Voluntary manslaughter, as set out in § 18.2-35;
  - Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
  - Malicious wounding by mob, as set out in § 18.2-41;
  - Assault or battery by mob, as set out in § 18.2-42;
  - Abduction, as set out in subsection A or B of § 18.2-47;
  - Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
  - Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
  - Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;
  - Aggravated malicious wounding, as set out in § 18.2-51.2;
  - Reckless endangerment, as set out in § 18.2-51.3;
  - Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
  - Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;
  - Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;
  - Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
  - Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
  - Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
  - Attempts to poison, as set out in § 18.2-54.1;
  - Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
  - Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers, or adult parolees, as set out in § 18.2-55;
  - Hazing of youth gang members, as set out in § 18.2-55.1;
  - Hazing, as set out in § 18.2-56;
  - Reckless handling of firearms, as set out in § 18.2-56.1;
  - Allowing access to firearms by children, as set out in § 18.2-56.2;
  - Assault and battery, as set out in § 18.2-57;
  - Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
  - Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
  - Assault and battery against a family or household member, as set out in § 18.2-57.2;
  - Robbery, as set out in § 18.2-58;
  - Carjacking, as set out in § 18.2-58.1;
  - Extortion by threat, as set out in § 18.2-59;
  - Threat of death or bodily injury, as set out in § 18.2-60;
  - Any felony stalking offense, as set out in § 18.2-60.3;
  - Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
  - Rape, as set out in § 18.2-61;
  - Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
  - Carnal knowledge of certain minors, as set out in § 18.2-64.1;
  - Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as set out in § 18.2-64.2;
  - Forcible sodomy, as set out in § 18.2-67.1;
  - Object sexual penetration, as set out in § 18.2-67.2;
  - Aggravated sexual battery, as set out in § 18.2-67.3;
  - Sexual battery, as set out in § 18.2-67.4;
  - Infected sexual battery, as set out in § 18.2-67.4.1;
  - Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
  - Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery, as set out in § 18.2-67.5;

2888 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;*  
 2889 *or*  
 2890 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*  
 2891 *2. Crimes against property, or an equivalent offense in another state:*  
 2892 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*  
 2893 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*  
 2894 *Burning or destroying any other building or structure, as set out in § 18.2-80;*  
 2895 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*  
 2896 *Burning building or structure while in such building or structure with intent to commit a felony, as*  
 2897 *set out in § 18.2-82;*  
 2898 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*  
 2899 *such buildings, etc., as set out in § 18.2-83;*  
 2900 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*  
 2901 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*  
 2902 *§ 18.2-85;*  
 2903 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*  
 2904 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*  
 2905 *§ 18.2-87;*  
 2906 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*  
 2907 *18.2-87.1;*  
 2908 *Carelessly damaging property by fire, as set out in § 18.2-88;*  
 2909 *Burglary, as set out in § 18.2-89;*  
 2910 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*  
 2911 *§ 18.2-90;*  
 2912 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*  
 2913 *set out in § 18.2-91;*  
 2914 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*  
 2915 *18.2-92;*  
 2916 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*  
 2917 *Possession of burglarious tools, etc., as set out in § 18.2-94;*  
 2918 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*  
 2919 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*  
 2920 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2921 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*  
 2922 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*  
 2923 *Allowing a minor or incapacitated person to be present during manufacture or attempted*  
 2924 *manufacture of methamphetamine, as set out in § 18.2-248.02;*  
 2925 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2926 *distribute methamphetamine, as set out in § 18.2-248.03;*  
 2927 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*  
 2928 *in § 18.2-248.1;*  
 2929 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2930 *distribute synthetic cannabinoids as set out in § 18.2-248.1:1;*  
 2931 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*  
 2932 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*  
 2933 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*  
 2934 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2935 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*  
 2936 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*  
 2937 *Conspiracy, as set out in § 18.2-256;*  
 2938 *Attempts, as set out in § 18.2-257;*  
 2939 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*  
 2940 *in § 18.2-258;*  
 2941 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*  
 2942 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*  
 2943 *as set out in § 18.2-258.1; or*  
 2944 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*  
 2945 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*  
 2946 *Possession of controlled substances, as set out in § 18.2-250;*  
 2947 *Possession of flunitrazepam, as set out in § 18.2-251.2;*  
 2948 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*  
 2949 *Conspiracy, as set out in § 18.2-256; or*



Attempts, as set out in § 18.2-257;  
 5. Crimes involving health or safety, or an equivalent offense in another state:  
 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of § 18.2-300; or  
 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 Crimes against nature, as set out in § 18.2-361, involving children;  
 Incest, as set out in § 18.2-366;  
 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 Abuse or neglect of children, as set out in § 18.2-371.1;  
 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 Possession, reproduction, distribution, or facilitation of child pornography, as set out in § 18.2-374.1.1;  
 Use of communications systems to facilitate certain crimes involving children, as set out in § 18.2-374.3;  
 Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third or subsequent conviction, when as a result of such third or subsequent conviction the individual is required to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 Escape from jail, as set out in § 18.2-477;  
 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have elapsed between the date of conviction and the date of application.  
 D. No person specified in subsection A shall be involved in the day-to-day operations of the child welfare agency or shall be alone with, in control of, or supervising one or more of the children without first having completed background checks pursuant to subsection B.  
 E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have elapsed following the conviction.  
 F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by the Governor, provided 25 years have elapsed following the conviction.  
 G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction.  
 H. If an applicant is denied licensure, registration or approval because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.  
 I. 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.  
 J. The provisions of this section referring to a sworn statement or affirmation and to prohibitions on the issuance of a license for any offense shall not apply to any children's residential facility licensed

3011 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements  
 3012 contained in § 63.2-1726.

3013 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain**  
 3014 **background check.**

3015 A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare  
 3016 agency, an assisted living facility or adult day care center, a child-placing agency may revoke the  
 3017 approval of a foster home, and a family day system may revoke the approval of a family day home if  
 3018 the assisted living facility, adult day care center, child welfare agency, foster home or approved family  
 3019 day home has knowledge that a person specified in §§ 63.2-1720 and 63.2-1721 required to have a  
 3020 background check has ~~an offense as defined in § 63.2-1719~~ *been convicted of a crime identified as that*  
 3021 *section*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723  
 3022 or is not subject to the exceptions in subsection B of § 63.2-1720 and subsection E of § 63.2-1721, and  
 3023 the facility, center or agency refuses to separate such person from employment or service.

3024 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for  
 3025 denial or revocation of a license, registration or approval. No violation shall occur if the assisted living  
 3026 facility, adult day care center or child welfare agency has applied for the background check timely and  
 3027 it has not been obtained due to administrative delay. The provisions of this section shall be enforced by  
 3028 the Department.

3029 **§ 63.2-1723. Child welfare agencies; criminal conviction and waiver.**

3030 A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is  
 3031 disqualified because of a criminal conviction or a criminal conviction in the background check of any  
 3032 other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720,  
 3033 63.2-1721 and 63.2-1724, may apply in writing for a waiver from the Commissioner. The Commissioner  
 3034 may grant a waiver if the Commissioner determines that (i) the person is of good moral character and  
 3035 reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the  
 3036 person's care. The Commissioner shall not grant a waiver to any person who has been convicted of a  
 3037 ~~barrier crime as defined in § 63.2-1719~~ *any of the following or adjudicated delinquent based on one of*  
 3038 *the following if such delinquency was based on a crime that would have been a felony if committed by*  
 3039 *an adult:*

3040 *1. Crimes against the person, or an equivalent offense in another state:*

3041 *Capital murder, as set out in § 18.2-31;*

3042 *First or second degree murder, as set out in § 18.2-32;*

3043 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

3044 *Killing of a fetus, as set out in § 18.2-32.2;*

3045 *Felony homicide, as set out in § 18.2-33;*

3046 *Voluntary manslaughter, as set out in § 18.2-35;*

3047 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

3048 *Malicious wounding by mob, as set out in § 18.2-41;*

3049 *Assault or battery by mob, as set out in § 18.2-42;*

3050 *Abduction, as set out in subsection A or B of § 18.2-47;*

3051 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

3052 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*

3053 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*  
 3054 *emergency medical service providers, as set out in § 18.2-51.1;*

3055 *Aggravated malicious wounding, as set out in § 18.2-51.2;*

3056 *Reckless endangerment, as set out in § 18.2-51.3;*

3057 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*

3058 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*  
 3059 *§ 18.2-51.5;*

3060 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*  
 3061 *as set out in § 18.2-52;*

3062 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*

3063 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*

3064 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*

3065 *Attempts to poison, as set out in § 18.2-54.1;*

3066 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*

3067 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*  
 3068 *probationers, or adult parolees, as set out in § 18.2-55;*

3069 *Hazing of youth gang members, as set out in § 18.2-55.1;*

3070 *Hazing, as set out in § 18.2-56;*

3071 *Reckless handling of firearms, as set out in § 18.2-56.1;*

3072 *Allowing access to firearms by children, as set out in § 18.2-56.2;*

- 3073 Assault and battery, as set out in § 18.2-57;
- 3074 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 3075 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 3076 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 3077 Robbery, as set out in § 18.2-58;
- 3078 Carjacking, as set out in § 18.2-58.1;
- 3079 Extortion by threat, as set out in § 18.2-59;
- 3080 Threat of death or bodily injury, as set out in § 18.2-60;
- 3081 Any felony stalking offense, as set out in § 18.2-60.3;
- 3082 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 3083 Rape, as set out in § 18.2-61;
- 3084 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 3085 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 3086 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 3087 set out in § 18.2-64.2;
- 3088 Forcible sodomy, as set out in § 18.2-67.1;
- 3089 Object sexual penetration, as set out in § 18.2-67.2;
- 3090 Aggravated sexual battery, as set out in § 18.2-67.3;
- 3091 Sexual battery, as set out in § 18.2-67.4;
- 3092 Infected sexual battery, as set out in § 18.2-67.4.1;
- 3093 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 3094 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 3095 battery, as set out in § 18.2-67.5;
- 3096 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 3097 or
- 3098 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 3099 2. Crimes against property, or an equivalent offense in another state:
- 3100 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 3101 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 3102 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 3103 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 3104 Burning building or structure while in such building or structure with intent to commit a felony, as
- 3105 set out in § 18.2-82;
- 3106 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 3107 such buildings, etc., as set out in § 18.2-83;
- 3108 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 3109 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 3110 § 18.2-85;
- 3111 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 3112 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
- 3113 § 18.2-87;
- 3114 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
- 3115 18.2-87.1;
- 3116 Carelessly damaging property by fire, as set out in § 18.2-88;
- 3117 Burglary, as set out in § 18.2-89;
- 3118 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
- 3119 § 18.2-90;
- 3120 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
- 3121 set out in § 18.2-91;
- 3122 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §
- 3123 18.2-92;
- 3124 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
- 3125 Possession of burglarious tools, etc., as set out in § 18.2-94;
- 3126 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
- 3127 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
- 3128 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
- 3129 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
- 3130 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
- 3131 Allowing a minor or incapacitated person to be present during manufacture or attempted
- 3132 manufacture of methamphetamine, as set out in § 18.2-248.02;
- 3133 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or

3134 distribute methamphetamine, as set out in § 18.2-248.03;  
 3135 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out  
 3136 in § 18.2-248.1;  
 3137 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3138 distribute synthetic cannabinoids as set out in § 18.2-248.1.1;  
 3139 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3140 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 3141 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 3142 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 3143 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 3144 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 3145 Conspiracy, as set out in § 18.2-256;  
 3146 Attempts, as set out in § 18.2-257;  
 3147 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 3148 in § 18.2-258;  
 3149 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 3150 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 3151 as set out in § 18.2-258.1; or  
 3152 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 3153 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
 3154 Possession of controlled substances, as set out in § 18.2-250;  
 3155 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 3156 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 3157 Conspiracy, as set out in § 18.2-256; or  
 3158 Attempts, as set out in § 18.2-257;  
 3159 5. Crimes involving health or safety, or an equivalent offense in another state:  
 3160 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 3161 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 3162 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 3163 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
 3164 of § 18.2-300; or  
 3165 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 3166 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 3167 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 3168 Crimes against nature, as set out in § 18.2-361, involving children;  
 3169 Incest, as set out in § 18.2-366;  
 3170 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 3171 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 3172 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 3173 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
 3174 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
 3175 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
 3176 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 3177 Abuse or neglect of children, as set out in § 18.2-371.1;  
 3178 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 3179 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
 3180 § 18.2-374.1.1;  
 3181 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 3182 18.2-374.3;  
 3183 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 3184 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 3185 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 3186 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
 3187 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
 3188 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 3189 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 3190 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 3191 Escape from jail, as set out in § 18.2-477; or  
 3192 8. Any felony offense by prisoners as set out in § 53.1-203.  
 3193 However, the Commissioner may grant a waiver to a family day home regulated by the Department  
 3194 if any other adult living in the home of the applicant or provider has been convicted of not more than  
 3195 one misdemeanor offense under § 18.2-57 or § 18.2-57.2, provided (a) five years have elapsed following

the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2. Any waiver granted under this section shall be available for inspection by the public. The child welfare agency shall notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees or volunteers.

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

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

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389 and shall refuse employment or service to any person who has ~~any offense defined in § 63.2-1719~~ been convicted of any of the following or adjudicated delinquent based on one of the following if such delinquency was based on a crime that would have been a felony if committed by an adult:

1. Crimes against the person, or an equivalent offense in another state:
  - Capital murder, as set out in § 18.2-31;
  - First or second degree murder, as set out in § 18.2-32;
  - Murder of a pregnant woman, as set out in § 18.2-32.1;
  - Killing of a fetus, as set out in § 18.2-32.2;
  - Felony homicide, as set out in § 18.2-33;
  - Voluntary manslaughter, as set out in § 18.2-35;
  - Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
  - Malicious wounding by mob, as set out in § 18.2-41;
  - Assault or battery by mob, as set out in § 18.2-42;
  - Abduction, as set out in subsection A or B of § 18.2-47;
  - Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
  - Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
  - Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers, as set out in § 18.2-51.1;
  - Aggravated malicious wounding, as set out in § 18.2-51.2;
  - Reckless endangerment, as set out in § 18.2-51.3;
  - Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
  - Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in § 18.2-51.5;
  - Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire, as set out in § 18.2-52;
  - Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
  - Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
  - Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
  - Attempts to poison, as set out in § 18.2-54.1;
  - Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
  - Bodily injuries caused by prisoners, state juvenile probationers and state and local adult probationers, or adult parolees, as set out in § 18.2-55;
  - Hazing of youth gang members, as set out in § 18.2-55.1;
  - Hazing, as set out in § 18.2-56;
  - Reckless handling of firearms, as set out in § 18.2-56.1;
  - Allowing access to firearms by children, as set out in § 18.2-56.2;
  - Assault and battery, as set out in § 18.2-57;
  - Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
  - Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
  - Assault and battery against a family or household member, as set out in § 18.2-57.2;
  - Robbery, as set out in § 18.2-58;
  - Carjacking, as set out in § 18.2-58.1;
  - Extortion by threat, as set out in § 18.2-59;
  - Threat of death or bodily injury, as set out in § 18.2-60;
  - Any felony stalking offense, as set out in § 18.2-60.3;
  - Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;

- 3257 *Rape, as set out in § 18.2-61;*
- 3258 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 3259 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 3260 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 3261 *set out in § 18.2-64.2;*
- 3262 *Forcible sodomy, as set out in § 18.2-67.1;*
- 3263 *Object sexual penetration, as set out in § 18.2-67.2;*
- 3264 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 3265 *Sexual battery, as set out in § 18.2-67.4;*
- 3266 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 3267 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 3268 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 3269 *battery, as set out in § 18.2-67.5;*
- 3270 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*
- 3271 *or*
- 3272 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 3273 *2. Crimes against property, or an equivalent offense in another state:*
- 3274 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 3275 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 3276 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 3277 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 3278 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 3279 *set out in § 18.2-82;*
- 3280 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 3281 *such buildings, etc., as set out in § 18.2-83;*
- 3282 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 3283 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 3284 *§ 18.2-85;*
- 3285 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 3286 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 3287 *§ 18.2-87;*
- 3288 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
- 3289 *18.2-87.1;*
- 3290 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 3291 *Burglary, as set out in § 18.2-89;*
- 3292 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 3293 *§ 18.2-90;*
- 3294 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 3295 *set out in § 18.2-91;*
- 3296 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
- 3297 *18.2-92;*
- 3298 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 3299 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 3300 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 3301 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 3302 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3303 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 3304 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 3305 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 3306 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 3307 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3308 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 3309 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
- 3310 *in § 18.2-248.1;*
- 3311 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3312 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
- 3313 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3314 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
- 3315 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
- 3316 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
- 3317 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
- 3318 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*

3319 Conspiracy, as set out in § 18.2-256;  
 3320 Attempts, as set out in § 18.2-257;  
 3321 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 3322 in § 18.2-258;  
 3323 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 3324 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 3325 as set out in § 18.2-258.1; or  
 3326 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 3327 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
 3328 Possession of controlled substances, as set out in § 18.2-250;  
 3329 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 3330 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 3331 Conspiracy, as set out in § 18.2-256; or  
 3332 Attempts, as set out in § 18.2-257;  
 3333 5. Crimes involving health or safety, or an equivalent offense in another state:  
 3334 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
 3335 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
 3336 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
 3337 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
 3338 of § 18.2-300; or  
 3339 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
 3340 6. Crimes involving morals and decency, or an equivalent offense in another state:  
 3341 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
 3342 Crimes against nature, as set out in § 18.2-361, involving children;  
 3343 Incest, as set out in § 18.2-366;  
 3344 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
 3345 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
 3346 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
 3347 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
 3348 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
 3349 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
 3350 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 3351 Abuse or neglect of children, as set out in § 18.2-371.1;  
 3352 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
 3353 Possession, reproduction, distribution, or facilitation of child pornography, as set out in §  
 3354 18.2-374.1:1;  
 3355 Use of communications systems to facilitate certain crimes involving children, as set out in §  
 3356 18.2-374.3;  
 3357 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
 3358 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
 3359 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
 3360 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
 3361 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
 3362 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
 3363 7. Crimes against the administration of justice, or an equivalent offense in another state:  
 3364 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
 3365 Escape from jail, as set out in § 18.2-477;  
 3366 8. Any felony offense by prisoners as set out in § 53.1-203; or  
 3367 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have  
 3368 elapsed between the date of conviction and the date of application.  
 3369 Such center shall also require a prospective employee or volunteer or any other person who is  
 3370 expected to be alone with one or more children in the child day center to provide a sworn statement or  
 3371 affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint  
 3372 of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for  
 3373 any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The  
 3374 foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own  
 3375 child. For purposes of this section, convictions shall include prior adult convictions and juvenile  
 3376 convictions or adjudications of delinquency based on a crime that would have been a felony if  
 3377 committed by an adult within or outside the Commonwealth. Any person making a materially false  
 3378 statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied  
 3379 employment or service because of information from the central registry or convictions appearing on his

3380 criminal history record, the child day center shall provide a copy of the information obtained from the  
 3381 central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of  
 3382 the information provided to the facility is prohibited.

3383 The provisions of this section referring to volunteers shall apply only to volunteers who will be alone  
 3384 with any child in the performance of their duties and shall not apply to a parent-volunteer of a child  
 3385 attending the child day center whether or not such parent-volunteer will be alone with any child in the  
 3386 performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children  
 3387 which includes the parent-volunteer's own child, in a program which operates no more than four hours  
 3388 per day, where the parent-volunteer works under the direct supervision of a person who has received a  
 3389 clearance pursuant to this section.

3390 **§ 63.2-1725. Records checks of child day centers or family day homes receiving federal, state or**  
 3391 **local child care funds; penalty.**

3392 Whenever any child day center or family day home that has not met the requirements of  
 3393 §§ 63.2-1720, 63.2-1721, and 63.2-1724 applies to enter into a contract with the Department or a local  
 3394 department to provide child care services to clients of the Department or local department, the  
 3395 Department or local department shall require a criminal records check pursuant to subdivision A 43 of  
 3396 § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child  
 3397 abuse or neglect investigation, of the applicant; any employee; prospective employee; volunteers; agents  
 3398 involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or  
 3399 more of the children; and any other adult living in a family day home. The applicant shall provide the  
 3400 Department or local department with copies of these records checks. The child day center or family day  
 3401 home shall not be permitted to enter into a contract with the Department or a local department for child  
 3402 care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved  
 3403 in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or  
 3404 any other adult living in a family day home has ~~any offense as defined in § 63.2-1719~~ been convicted of  
 3405 any of the following or adjudicated delinquent based on one of the following if such delinquency was  
 3406 based on a crime that would have been a felony if committed by an adult:

3407 1. Crimes against the person, or an equivalent offense in another state:

3408 Capital murder, as set out in § 18.2-31;

3409 First or second degree murder, as set out in § 18.2-32;

3410 Murder of a pregnant woman, as set out in § 18.2-32.1;

3411 Killing of a fetus, as set out in § 18.2-32.2;

3412 Felony homicide, as set out in § 18.2-33;

3413 Voluntary manslaughter, as set out in § 18.2-35;

3414 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;

3415 Malicious wounding by mob, as set out in § 18.2-41;

3416 Assault or battery by mob, as set out in § 18.2-42;

3417 Abduction, as set out in subsection A or B of § 18.2-47;

3418 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;

3419 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;

3420 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or  
 3421 emergency medical service providers, as set out in § 18.2-51.1;

3422 Aggravated malicious wounding, as set out in § 18.2-51.2;

3423 Reckless endangerment, as set out in § 18.2-51.3;

3424 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;

3425 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
 3426 § 18.2-51.5;

3427 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 3428 as set out in § 18.2-52;

3429 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;

3430 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;

3431 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;

3432 Attempts to poison, as set out in § 18.2-54.1;

3433 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;

3434 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 3435 probationers, or adult parolees, as set out in § 18.2-55;

3436 Hazing of youth gang members, as set out in § 18.2-55.1;

3437 Hazing, as set out in § 18.2-56;

3438 Reckless handling of firearms, as set out in § 18.2-56.1;

3439 Allowing access to firearms by children, as set out in § 18.2-56.2;

3440 Assault and battery, as set out in § 18.2-57;

3441 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;



- 3442 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
- 3443 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
- 3444 *Robbery, as set out in § 18.2-58;*
- 3445 *Carjacking, as set out in § 18.2-58.1;*
- 3446 *Extortion by threat, as set out in § 18.2-59;*
- 3447 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 3448 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 3449 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 3450 *Rape, as set out in § 18.2-61;*
- 3451 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 3452 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 3453 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 3454 *set out in § 18.2-64.2;*
- 3455 *Forcible sodomy, as set out in § 18.2-67.1;*
- 3456 *Object sexual penetration, as set out in § 18.2-67.2;*
- 3457 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 3458 *Sexual battery, as set out in § 18.2-67.4;*
- 3459 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 3460 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 3461 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 3462 *battery, as set out in § 18.2-67.5;*
- 3463 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*
- 3464 *or*
- 3465 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 3466 *2. Crimes against property, or an equivalent offense in another state:*
- 3467 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 3468 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 3469 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 3470 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 3471 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 3472 *set out in § 18.2-82;*
- 3473 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 3474 *such buildings, etc., as set out in § 18.2-83;*
- 3475 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 3476 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 3477 *§ 18.2-85;*
- 3478 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 3479 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 3480 *§ 18.2-87;*
- 3481 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
- 3482 *18.2-87.1;*
- 3483 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 3484 *Burglary, as set out in § 18.2-89;*
- 3485 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 3486 *§ 18.2-90;*
- 3487 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 3488 *set out in § 18.2-91;*
- 3489 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
- 3490 *18.2-92;*
- 3491 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 3492 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 3493 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 3494 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 3495 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3496 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 3497 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 3498 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 3499 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 3500 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3501 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 3502 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*

3503 in § 18.2-248.1;  
3504 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
3505 distribute synthetic cannabinoids as set out in § 18.2-248.1.1;  
3506 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
3507 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
3508 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
3509 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
3510 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
3511 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
3512 Conspiracy, as set out in § 18.2-256;  
3513 Attempts, as set out in § 18.2-257;  
3514 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
3515 in § 18.2-258;  
3516 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
3517 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
3518 as set out in § 18.2-258.1; or  
3519 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
3520 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:  
3521 Possession of controlled substances, as set out in § 18.2-250;  
3522 Possession of flunitrazepam, as set out in § 18.2-251.2;  
3523 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
3524 Conspiracy, as set out in § 18.2-256; or  
3525 Attempts, as set out in § 18.2-257;  
3526 5. Crimes involving health or safety, or an equivalent offense in another state:  
3527 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;  
3528 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;  
3529 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;  
3530 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A  
3531 of § 18.2-300; or  
3532 Failing to secure medical attention for an injured child, as set out in § 18.2-314;  
3533 6. Crimes involving morals and decency, or an equivalent offense in another state:  
3534 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;  
3535 Crimes against nature, as set out in § 18.2-361, involving children;  
3536 Incest, as set out in § 18.2-366;  
3537 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;  
3538 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;  
3539 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;  
3540 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts  
3541 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required  
3542 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against  
3543 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
3544 Abuse or neglect of children, as set out in § 18.2-371.1;  
3545 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;  
3546 Possession, reproduction, distribution, or facilitation of child pornography, as set out in  
3547 § 18.2-374.1.1;  
3548 Use of communications systems to facilitate certain crimes involving children, as set out in §  
3549 18.2-374.3;  
3550 Employing or permitting a minor to assist in an act constituting an offense under Article 5  
3551 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or  
3552 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third  
3553 or subsequent conviction, when as a result of such third or subsequent conviction the individual is  
3554 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes  
3555 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;  
3556 7. Crimes against the administration of justice, or an equivalent offense in another state:  
3557 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or  
3558 Escape from jail, as set out in § 18.2-477;  
3559 8. Any felony offense by prisoners as set out in § 53.1-203; or  
3560 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have  
3561 elapsed between the date of conviction and the date of application.  
3562 The child day center or family day home shall also require the above individuals to provide a sworn  
3563 statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded  
3564 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 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.

**§ 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 individual who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 2007, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2007, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2007, to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The children's residential facility shall inform the applicant 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. The applicant shall provide the children's residential facility with a 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. The results of the criminal history background check must be received prior to permitting an applicant to work with children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the children's residential facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant'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 children's facility whether the applicant is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social Services shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been (a) convicted of or are the subject of pending charges for the following crimes: a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; extortion by threat as set 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 felony violation of a protective order as 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 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 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 violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; taking indecent liberties with children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in § 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state; (b) convicted of any felony violation relating to possession of drugs as set out in Article 1

3626 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date for  
 3627 employment, to be a volunteer, or to provide contractual services; or (e) convicted of any felony  
 3628 violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title  
 3629 18.2 and continue on probation or parole or have failed to pay required court costs:  
 3630 1. Crimes against the person, or an equivalent offense in another state:  
 3631 Capital murder, as set out in § 18.2-31;  
 3632 First or second degree murder, as set out in § 18.2-32;  
 3633 Murder of a pregnant woman, as set out in § 18.2-32.1;  
 3634 Killing of a fetus, as set out in § 18.2-32.2;  
 3635 Felony homicide, as set out in § 18.2-33;  
 3636 Voluntary manslaughter, as set out in § 18.2-35;  
 3637 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;  
 3638 Malicious wounding by mob, as set out in § 18.2-41;  
 3639 Abduction, as set out in subsection A or B of § 18.2-47;  
 3640 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;  
 3641 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;  
 3642 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or  
 3643 emergency medical service providers, as set out in § 18.2-51.1;  
 3644 Aggravated malicious wounding, as set out in § 18.2-51.2;  
 3645 Reckless endangerment, as set out in § 18.2-51.3;  
 3646 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;  
 3647 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in  
 3648 § 18.2-51.5;  
 3649 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,  
 3650 as set out in § 18.2-52;  
 3651 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;  
 3652 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;  
 3653 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;  
 3654 Attempts to poison, as set out in § 18.2-54.1;  
 3655 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;  
 3656 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult  
 3657 probationers, or adult parolees, as set out in § 18.2-55;  
 3658 Hazing of youth gang members, as set out in § 18.2-55.1;  
 3659 Hazing, as set out in § 18.2-56;  
 3660 Reckless handling of firearms, as set out in § 18.2-56.1;  
 3661 Allowing access to firearms by children, as set out in § 18.2-56.2;  
 3662 Assault and battery, as set out in § 18.2-57;  
 3663 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;  
 3664 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;  
 3665 Assault and battery against a family or household member, as set out in § 18.2-57.2;  
 3666 Robbery, as set out in § 18.2-58;  
 3667 Carjacking, as set out in § 18.2-58.1;  
 3668 Extortion by threat, as set out in § 18.2-59;  
 3669 Threat of death or bodily injury, as set out in § 18.2-60;  
 3670 Any felony stalking offense, as set out in § 18.2-60.3;  
 3671 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;  
 3672 Rape, as set out in § 18.2-61;  
 3673 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;  
 3674 Carnal knowledge of certain minors, as set out in § 18.2-64.1;  
 3675 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as  
 3676 set out in § 18.2-64.2;  
 3677 Forcible sodomy, as set out in § 18.2-67.1;  
 3678 Object sexual penetration, as set out in § 18.2-67.2;  
 3679 Aggravated sexual battery, as set out in § 18.2-67.3;  
 3680 Sexual battery, as set out in § 18.2-67.4;  
 3681 Infected sexual battery, as set out in § 18.2-67.4.1;  
 3682 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;  
 3683 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual  
 3684 battery, as set out in § 18.2-67.5;  
 3685 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;  
 3686 or  
 3687 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;

- 3688 2. Crimes against property, or an equivalent offense in another state:  
 3689 Burning or destroying dwelling house, etc., as set out in § 18.2-77;  
 3690 Burning or destroying meeting house, etc., as set out in § 18.2-79;  
 3691 Burning or destroying any other building or structure, as set out in § 18.2-80;  
 3692 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;  
 3693 Burning building or structure while in such building or structure with intent to commit a felony, as  
 3694 set out in § 18.2-82;  
 3695 Threats to bomb or damage buildings or means of transportation; false information as to danger to  
 3696 such buildings, etc., as set out in § 18.2-83;  
 3697 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;  
 3698 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in  
 3699 § 18.2-85;  
 3700 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;  
 3701 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in §  
 3702 18.2-87;  
 3703 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §  
 3704 18.2-87.1;  
 3705 Carelessly damaging property by fire, as set out in § 18.2-88;  
 3706 Burglary, as set out in § 18.2-89;  
 3707 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in  
 3708 § 18.2-90;  
 3709 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as  
 3710 set out in § 18.2-91;  
 3711 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §  
 3712 18.2-92;  
 3713 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or  
 3714 Possession of burglarious tools, etc., as set out in § 18.2-94;  
 3715 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with  
 3716 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:  
 3717 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3718 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;  
 3719 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;  
 3720 Allowing a minor or incapacitated person to be present during manufacture or attempted  
 3721 manufacture of methamphetamine, as set out in § 18.2-248.02;  
 3722 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3723 distribute methamphetamine, as set out in § 18.2-248.03;  
 3724 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out  
 3725 in § 18.2-248.1;  
 3726 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3727 distribute synthetic cannabinoids as set out in § 18.2-248.1:1;  
 3728 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or  
 3729 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;  
 3730 Distribution of flunitrazepam, as set out in § 18.2-251.2;  
 3731 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;  
 3732 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;  
 3733 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;  
 3734 Conspiracy, as set out in § 18.2-256;  
 3735 Attempts, as set out in § 18.2-257;  
 3736 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out  
 3737 in § 18.2-258;  
 3738 Maintaining a fortified drug house, as set out in § 18.2-258.02;  
 3739 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,  
 3740 as set out in § 18.2-258.1; or  
 3741 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;  
 3742 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if  
 3743 less than five years have elapsed between the date of conviction and the date of application for  
 3744 employment or if the applicant continues to be on probation or parole or has failed to pay required  
 3745 court costs:  
 3746 Possession of controlled substances, as set out in § 18.2-250;  
 3747 Possession of flunitrazepam, as set out in § 18.2-251.2;  
 3748 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;

3749 *Conspiracy, as set out in § 18.2-256; or*  
3750 *Attempts, as set out in § 18.2-257;*  
3751 *5. Crimes involving health or safety, or an equivalent offense in another state:*  
3752 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*  
3753 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*  
3754 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*  
3755 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*  
3756 *of § 18.2-300; or*  
3757 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*  
3758 *6. Crimes involving morals and decency, or an equivalent offense in another state:*  
3759 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*  
3760 *Crimes against nature, as set out in § 18.2-361, involving children;*  
3761 *Incest, as set out in § 18.2-366;*  
3762 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*  
3763 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*  
3764 *Abuse or neglect of children, as set out in § 18.2-371.1;*  
3765 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*  
3766 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*  
3767 *§ 18.2-374.1:1;*  
3768 *Use of communications systems to facilitate certain crimes involving children, as set out in §*  
3769 *18.2-374.3; or*  
3770 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*  
3771 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*  
3772 *7. Crimes against the administration of justice, or an equivalent offense in another state:*  
3773 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*  
3774 *Escape from jail, as set out in § 18.2-477; or*  
3775 *8. Any felony offense by prisoners as set out in § 53.1-203.*  
3776 The provisions of this section also shall apply to residential programs established pursuant to  
3777 § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that  
3778 alleges the juvenile is delinquent or in need of services or supervision, and to local secure detention  
3779 facilities provided, however, that the provisions of this section related to local secure detention facilities  
3780 shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at  
3781 such local secure detention facility, volunteers at such local secure detention facility on a regular basis  
3782 and will be alone with a juvenile in the performance of his duties, or provides contractual services  
3783 directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a  
3784 juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local  
3785 agency that regulates or operates the local secure detention facility shall process the criminal history  
3786 record information regarding such applicant in accordance with this subsection and subsection B.  
3787 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for  
3788 compensated employment or for volunteer or contractual service purposes persons who have been  
3789 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have  
3790 elapsed following the conviction, unless the person committed such offense in the scope of his  
3791 employment, volunteer, or contractual services.  
3792 If the applicant is denied employment or the opportunity to volunteer or provide services at a  
3793 children's residential facility because of information appearing on his criminal history record, and the  
3794 applicant disputes the information upon which the denial was based, upon written request of the  
3795 applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history  
3796 record from the Federal Bureau of Investigation. If the applicant has been permitted to assume duties  
3797 that do not involve contact with children pending receipt of the report, the children's residential facility  
3798 is not precluded from suspending the applicant from his position pending a final determination of the  
3799 applicant's eligibility to have responsibility for the safety and well-being of children. The information  
3800 provided to the children's residential facility shall not be disseminated except as provided in this section.  
3801 C. Those individuals listed in clauses (i), (ii) and (iii) of subsection A also shall authorize the  
3802 children's residential facility to obtain a copy of information from the central registry maintained  
3803 pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The  
3804 applicant shall provide the children's residential facility with a written statement or affirmation disclosing  
3805 whether he has ever been the subject of a founded case of child abuse or neglect within or outside the  
3806 Commonwealth. The children's residential facility shall receive the results of the central registry search  
3807 prior to permitting an applicant to work alone with children. Children's residential facilities regulated or  
3808 operated by the Departments of Education; Behavioral Health and Developmental Services; Military  
3809 Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide  
3810 contractual services, persons who have a founded case of child abuse or neglect. Every residential

3811 facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be  
3812 authorized to obtain a copy of the information from the central registry.

3813 D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and  
3814 Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with  
3815 the provisions of this section. Copies of any information received by a children's residential facility  
3816 pursuant to this section shall be available to the agency that regulates or operates such facility but shall  
3817 not be disseminated further. The cost of obtaining the criminal history record and the central registry  
3818 information shall be borne by the employee or volunteer unless the children's residential facility, at its  
3819 option, decides to pay the cost.

3820 2. That § 63.2-1719 of the Code of Virginia is repealed.