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SENATE BILL NO. 353

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 24, 2014)

(Patron Prior to Substitute—Senator Edwards)

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, to amend the Code of Virginia by adding a section numbered 63.2-1719.1, and to repeal § 63.2-1719 of the Code of Virginia, relating to criminal history background checks; barrier crimes.

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 and that the Code of Virginia is amended by adding a section numbered 63.2-1719.1 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;

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; or*
99 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
100 *2. Crimes against property, or an equivalent offense in another state:*
101 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
102 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
103 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
104 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
105 *Burning building or structure while in such building or structure with intent to commit a felony, as*
106 *set out in § 18.2-82;*
107 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
108 *such buildings, etc., as set out in § 18.2-83;*
109 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
110 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
111 *§ 18.2-85;*
112 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
113 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
114 *§ 18.2-87;*
115 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
116 *§ 18.2-87.1;*
117 *Carelessly damaging property by fire, as set out in § 18.2-88;*
118 *Burglary, as set out in § 18.2-89;*
119 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
120 *§ 18.2-90;*
121 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*

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

183 § 18.2-374.3;
184 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
185 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
186 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
187 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
188 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
189 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
190 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
191 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
192 *Escape from jail, as set out in § 18.2-477;*
193 *8. Any felony offense by prisoners as set out in § 53.1-203; or*
194 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*
195 *elapsed between the date of conviction and the date of application.*
196 Such ordinances may require that persons who provide child-care services shall provide certification
197 from the central registry of the Department of Social Services that such persons have not been the
198 subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any
199 adverse information appearing on a record obtained from the Central Criminal Records Exchange, the
200 national criminal background check, or the Department of Social Services, the applicant shall be
201 provided a copy of the information upon which that denial was based.
202 **§ 19.2-389. Dissemination of criminal history record information.**
203 A. Criminal history record information shall be disseminated, whether directly or through an
204 intermediary, only to:
205 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
206 purposes of the administration of criminal justice and the screening of an employment application or
207 review of employment by a criminal justice agency with respect to its own employees or applicants, and
208 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
209 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
210 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;
211 2. Such other individuals and agencies that require criminal history record information to implement
212 a state or federal statute or executive order of the President of the United States or Governor that
213 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
214 conduct, except that information concerning the arrest of an individual may not be disseminated to a
215 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
216 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
217 pending;
218 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
219 services required for the administration of criminal justice pursuant to that agreement which shall
220 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
221 security and confidentiality of the data;
222 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
223 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
224 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
225 security of the data;
226 5. Agencies of state or federal government that are authorized by state or federal statute or executive
227 order of the President of the United States or Governor to conduct investigations determining
228 employment suitability or eligibility for security clearances allowing access to classified information;
229 6. Individuals and agencies where authorized by court order or court rule;
230 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
231 owned, operated or controlled by any political subdivision, and any public service corporation that
232 operates a public transit system owned by a local government for the conduct of investigations of
233 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
234 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
235 conviction record would be compatible with the nature of the employment, permit, or license under
236 consideration;
237 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.)
238 and their contractors, for the conduct of investigations of individuals who have been offered a position
239 of employment whenever, in the interest of public welfare or safety and as authorized in the
240 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
241 with a conviction record would be compatible with the nature of the employment under consideration;
242 8. Public or private agencies when authorized or required by federal or state law or interstate
243 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
244 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 elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization

306 coordinating such records information on behalf of such governing boards or administrators pursuant to
307 a written agreement with the Department of State Police;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

362 38. The State Corporation Commission for the purpose of investigating individuals who are current
363 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
364 Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an
365 application is denied based in whole or in part on information obtained from the Central Criminal
366 Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee
367 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:

429 "Barrier crime" means any offense set forth in § ~~63.2-1719~~ 63.2-1720, 63.2-1721, or 63.2-1726.

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

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

438 "Department" means the Department of State Police.

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

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

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

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

452 B. Notwithstanding §§ ~~63.2-1719~~ to 63.2-1720, 63.2-1721 and 63.2-1724, a qualified entity may
453 request the Department of State Police to conduct a national criminal background check on any provider
454 who is employed by such entity. No qualified entity may request a national criminal background check
455 on a provider until such provider has:

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

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

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

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

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

487 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
488 national criminal background check, the Department and the Federal Bureau of Investigation may each
489 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
490 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;
 - Carjacking, as set out in § 18.2-58.1;
 - Extortion by threat, as set out in § 18.2-59;

552 *Threat of death or bodily injury, as set out in § 18.2-60;*
553 *Any felony stalking offense, as set out in § 18.2-60.3;*
554 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
555 *Rape, as set out in § 18.2-61;*
556 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
557 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
558 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
559 *set out in § 18.2-64.2;*
560 *Forcible sodomy, as set out in § 18.2-67.1;*
561 *Object sexual penetration, as set out in § 18.2-67.2;*
562 *Aggravated sexual battery, as set out in § 18.2-67.3;*
563 *Sexual battery, as set out in § 18.2-67.4;*
564 *Infected sexual battery, as set out in § 18.2-67.4.1;*
565 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
566 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
567 *battery, as set out in § 18.2-67.5;*
568 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
569 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
570 *2. Crimes against property, or an equivalent offense in another state:*
571 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
572 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
573 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
574 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
575 *Burning building or structure while in such building or structure with intent to commit a felony, as*
576 *set out in § 18.2-82;*
577 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
578 *such buildings, etc., as set out in § 18.2-83;*
579 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
580 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
581 *§ 18.2-85;*
582 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
583 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
584 *§ 18.2-87;*
585 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
586 *§ 18.2-87.1;*
587 *Carelessly damaging property by fire, as set out in § 18.2-88;*
588 *Burglary, as set out in § 18.2-89;*
589 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
590 *§ 18.2-90;*
591 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
592 *set out in § 18.2-91;*
593 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
594 *§ 18.2-92;*
595 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
596 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
597 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
598 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
599 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
600 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
601 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
602 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
603 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
604 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
605 *distribute methamphetamine, as set out in § 18.2-248.03;*
606 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
607 *in § 18.2-248.1;*
608 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
609 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
610 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
611 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
612 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
613 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*

614 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 615 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 616 *Conspiracy, as set out in § 18.2-256;*
 617 *Attempts, as set out in § 18.2-257;*
 618 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 619 *in § 18.2-258;*
 620 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 621 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 622 *as set out in § 18.2-258.1; or*
 623 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 624 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 625 *Possession of controlled substances, as set out in § 18.2-250;*
 626 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 627 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 628 *Conspiracy, as set out in § 18.2-256; or*
 629 *Attempts, as set out in § 18.2-257;*
 630 *5. Crimes involving health or safety, or an equivalent offense in another state:*
 631 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 632 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 633 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*
 634 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*
 635 *of § 18.2-300; or*
 636 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 637 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
 638 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 639 *Crimes against nature, as set out in § 18.2-361, involving children;*
 640 *Incest, as set out in § 18.2-366;*
 641 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 642 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 643 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 644 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 645 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 646 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 647 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 648 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 649 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 650 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 651 *§ 18.2-374.1.1;*
 652 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 653 *§ 18.2-374.3;*
 654 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 655 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 656 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 657 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 658 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 659 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 660 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
 661 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
 662 *Escape from jail, as set out in § 18.2-477;*
 663 *8. Any felony offense by prisoners as set out in § 53.1-203; or*
 664 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*
 665 *elapsed between the date of conviction and the date of application.*
 666 *B. The Central Criminal Records Exchange shall not disclose information to such governing board,*
 667 *administrator, or private organization coordinating such records regarding charges or convictions of any*
 668 *crimes. If any applicant is denied employment because of information appearing on the criminal history*
 669 *record and the applicant disputes the information upon which the denial was based, the Central Criminal*
 670 *Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the*
 671 *criminal history record from the Federal Bureau of Investigation. The information provided to the*
 672 *governing board, administrator, or private organization coordinating such records shall not be*
 673 *disseminated except as provided in this section. A governing board or administrator employing or*
 674 *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 4 (§ 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 4 (§ 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 § 18.2-51.5;*
- Strangulation of another, as set out in § 18.2-51.6;*
- Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*

737 as set out in § 18.2-52;
 738 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
 739 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
 740 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
 741 Attempts to poison, as set out in § 18.2-54.1;
 742 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
 743 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
 744 probationers, or adult parolees, as set out in § 18.2-55;
 745 Hazing of youth gang members, as set out in § 18.2-55.1;
 746 Hazing, as set out in § 18.2-56;
 747 Reckless handling of firearms, as set out in § 18.2-56.1;
 748 Allowing access to firearms by children, as set out in § 18.2-56.2;
 749 Assault and battery, as set out in § 18.2-57;
 750 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
 751 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
 752 Assault and battery against a family or household member, as set out in § 18.2-57.2;
 753 Robbery, as set out in § 18.2-58;
 754 Carjacking, as set out in § 18.2-58.1;
 755 Extortion by threat, as set out in § 18.2-59;
 756 Threat of death or bodily injury, as set out in § 18.2-60;
 757 Any felony stalking offense, as set out in § 18.2-60.3;
 758 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
 759 Rape, as set out in § 18.2-61;
 760 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
 761 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
 762 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
 763 set out in § 18.2-64.2;
 764 Forcible sodomy, as set out in § 18.2-67.1;
 765 Object sexual penetration, as set out in § 18.2-67.2;
 766 Aggravated sexual battery, as set out in § 18.2-67.3;
 767 Sexual battery, as set out in § 18.2-67.4;
 768 Infected sexual battery, as set out in § 18.2-67.4.1;
 769 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
 770 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
 771 battery, as set out in § 18.2-67.5;
 772 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or
 773 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
 774 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
 775 Burning or destroying meeting house, etc., as set out in § 18.2-79;
 776 Burning or destroying any other building or structure, as set out in § 18.2-80;
 777 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
 778 Burning building or structure while in such building or structure with intent to commit a felony, as
 779 set out in § 18.2-82;
 780 Threats to bomb or damage buildings or means of transportation; false information as to danger to
 781 such buildings, etc., as set out in § 18.2-83;
 782 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
 783 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
 784 § 18.2-85;
 785 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
 786 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
 787 § 18.2-87;
 788 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in
 789 § 18.2-87.1;
 790 Carelessly damaging property by fire, as set out in § 18.2-88;
 791 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 792 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 793 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 794 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 795 of § 18.2-300; or
 796 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 797 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;

798 *Crimes against nature, as set out in § 18.2-361, involving children;*
 799 *Incest, as set out in § 18.2-366;*
 800 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 801 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 802 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 803 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 804 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 805 *§ 18.2-374.1.1;*
 806 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 807 *§ 18.2-374.3;*
 808 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 809 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 810 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1;*
 811 *Escape from jail, as set out in § 18.2-477; or*
 812 *Any felony offense by prisoners as set out in § 53.1-203.*

813 However, a licensed nursing home may hire an applicant who has been convicted of one
 814 misdemeanor specified in this section not involving abuse or neglect, if five years have elapsed
 815 following the conviction.

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

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

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

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

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

836 D. *In any case in which a question arises involving the interpretation of provisions governing*
 837 *criminal history background checks of applicants for employment and determinations as to whether an*
 838 *individual applicant is eligible for employment, the Commissioner shall request and the Attorney*
 839 *General shall provide an advisory opinion addressing the question raised.*

840 **§ 32.1-162.9:1. Employment for compensation of persons convicted of certain offenses**
 841 **prohibited; criminal records check required; drug testing; suspension or revocation of license.**

842 A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization
 843 exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any hospice exempt from licensure
 844 under subdivision 1 or 2 of § 32.1-162.2 or any licensed hospice as defined in § 32.1-162.1 shall not
 845 hire for compensated employment, persons who have been convicted of a felony violation of a
 846 protective order as set out in § 16.1-253.2, murder or manslaughter as set out in Article 1 (§ 18.2-30 et
 847 seq.) of Chapter 4 of Title 18.2, malicious wounding by a mob as set out in § 18.2-41, abduction as set
 848 out in subsection A or B of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults
 849 and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as
 850 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,
 851 threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, a
 852 felony violation of a protective order as set out in § 18.2-60.4, sexual assault as set out in Article 7
 853 (§ 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
 854 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
 855 violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a
 856 sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out
 857 in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in
 858 § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and
 859 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 § 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;

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

983 Records Exchange to the applicant.

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

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

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

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

998 E. *In any case in which a question arises involving the interpretation of provisions governing*
999 *criminal history background checks of applicants for employment and determinations as to whether an*
1000 *individual applicant is eligible for employment, the Commissioner shall request and the Attorney*
1001 *General shall provide an advisory opinion addressing the question raised.*

1002 **§ 37.2-314. Background check required.**

1003 A. As a condition of employment, the Department shall require any applicant who (i) accepts a
1004 position of employment at a state facility and was not employed by that state facility prior to July 1,
1005 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the
1006 Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to
1007 fingerprinting and provide personal descriptive information to be forwarded along with the applicant's
1008 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI)
1009 for the purpose of obtaining national criminal history record information regarding the applicant.

1010 B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated
1011 employment persons who have been (i) convicted of a felony violation of a protective order as set out in
1012 § 16.1-253.2; murder or manslaughter, as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title
1013 18.2; malicious wounding by mob, as set out in § 18.2-41; abduction, as set out in subsection A or B of
1014 § 18.2-47; abduction for immoral purposes, as set out in § 18.2-48; assault and bodily wounding, as set
1015 out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery, as set out in § 18.2-58;
1016 earjacking, as set out § 18.2-58.1; extortion by threat, as set out in § 18.2-59; threat, as set out in
1017 § 18.2-60; any felony stalking violation, as set out in § 18.2-60.3; a felony violation of a protective
1018 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
1019 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
1020 out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to
1021 distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by
1022 shooting, as set out in § 18.2-286.1; use of a machine gun in a crime of violence, as set out in
1023 § 18.2-289; aggressive use of a machine gun, as set out in § 18.2-290; use of a sawed-off shotgun in a
1024 crime of violence, as set out in subsection A of § 18.2-300; pandering, as set out in § 18.2-355; crimes
1025 against nature involving children, as set out in § 18.2-361; taking indecent liberties with children, as set
1026 out in § 18.2-370 or 18.2-370.1; abuse or neglect of children, as set out in § 18.2-371.1, including
1027 failing to secure medical attention for an injured child, as set out in § 18.2-314; obscenity offenses, as
1028 set out in § 18.2-374.1; possession of child pornography, as set out in § 18.2-374.1.1; electronic
1029 facilitation of pornography, as set out in § 18.2-374.3; incest, as set out in § 18.2-366; abuse or neglect
1030 of incapacitated adults, as set out in § 18.2-369; employing or permitting a minor to assist in an act
1031 constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; as set out in
1032 § 18.2-379; delivery of drugs to prisoners, as set out in § 18.2-474.1; escape from jail, as set out in
1033 § 18.2-477; felonies by prisoners, as set out in § 53.1-203; or an equivalent offense in another state; (ii)
1034 convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et
1035 seq.) of Chapter 7 of Title 18.2, in the five years prior to the application date for employment; or (iii)
1036 convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et
1037 seq.) of Chapter 7 of Title 18.2, and continue on probation or parole or have failed to pay required court
1038 costs:

1039 1. *Crimes against the person, or an equivalent offense in another state:*

1040 *Capital murder, as set out in § 18.2-31;*

1041 *First or second degree murder, as set out in § 18.2-32;*

1042 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

1043 *Killing of a fetus, as set out in § 18.2-32.2;*

- 1044 *Felony homicide, as set out in § 18.2-33;*
- 1045 *Voluntary manslaughter, as set out in § 18.2-35;*
- 1046 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*
- 1047 *Malicious wounding by mob, as set out in § 18.2-41;*
- 1048 *Assault or battery by mob, as set out in § 18.2-42;*
- 1049 *Abduction, as set out in subsection A or B of § 18.2-47;*
- 1050 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*
- 1051 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*
- 1052 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
- 1053 *emergency medical service providers, as set out in § 18.2-51.1;*
- 1054 *Aggravated malicious wounding, as set out in § 18.2-51.2;*
- 1055 *Reckless endangerment, as set out in § 18.2-51.3;*
- 1056 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*
- 1057 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
- 1058 *§ 18.2-51.5;*
- 1059 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
- 1060 *as set out in § 18.2-52;*
- 1061 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*
- 1062 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*
- 1063 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
- 1064 *Attempts to poison, as set out in § 18.2-54.1;*
- 1065 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*
- 1066 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
- 1067 *probationers, or adult parolees, as set out in § 18.2-55;*
- 1068 *Hazing of youth gang members, as set out in § 18.2-55.1;*
- 1069 *Hazing, as set out in § 18.2-56;*
- 1070 *Reckless handling of firearms, as set out in § 18.2-56.1;*
- 1071 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
- 1072 *Assault and battery, as set out in § 18.2-57;*
- 1073 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
- 1074 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
- 1075 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
- 1076 *Robbery, as set out in § 18.2-58;*
- 1077 *Carjacking, as set out in § 18.2-58.1;*
- 1078 *Extortion by threat, as set out in § 18.2-59;*
- 1079 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 1080 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 1081 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 1082 *Rape, as set out in § 18.2-61;*
- 1083 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 1084 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 1085 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 1086 *set out in § 18.2-64.2;*
- 1087 *Forcible sodomy, as set out in § 18.2-67.1;*
- 1088 *Object sexual penetration, as set out in § 18.2-67.2;*
- 1089 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 1090 *Sexual battery, as set out in § 18.2-67.4;*
- 1091 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 1092 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 1093 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 1094 *battery, as set out in § 18.2-67.5;*
- 1095 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
- 1096 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 1097 *2. Crimes against property, or an equivalent offense in another state:*
- 1098 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 1099 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 1100 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 1101 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 1102 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 1103 *set out in § 18.2-82;*
- 1104 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 1105 *such buildings, etc., as set out in § 18.2-83;*

1106 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
 1107 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
 1108 § 18.2-85;
 1109 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
 1110 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
 1111 § 18.2-87;
 1112 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in
 1113 § 18.2-87.1;
 1114 Carelessly damaging property by fire, as set out in § 18.2-88;
 1115 Burglary, as set out in § 18.2-89;
 1116 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
 1117 § 18.2-90;
 1118 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
 1119 set out in § 18.2-91;
 1120 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in
 1121 § 18.2-92;
 1122 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
 1123 Possession of burglarious tools, etc., as set out in § 18.2-94;
 1124 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
 1125 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
 1126 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1127 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
 1128 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
 1129 Allowing a minor or incapacitated person to be present during manufacture or attempted
 1130 manufacture of methamphetamine, as set out in § 18.2-248.02;
 1131 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1132 distribute methamphetamine, as set out in § 18.2-248.03;
 1133 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out
 1134 in § 18.2-248.1;
 1135 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1136 distribute synthetic cannabinoids as set out in § 18.2-248.1:1;
 1137 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1138 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;
 1139 Distribution of flunitrazepam, as set out in § 18.2-251.2;
 1140 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 1141 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
 1142 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
 1143 Conspiracy, as set out in § 18.2-256;
 1144 Attempts, as set out in § 18.2-257;
 1145 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
 1146 in § 18.2-258;
 1147 Maintaining a fortified drug house, as set out in § 18.2-258.02;
 1148 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
 1149 as set out in § 18.2-258.1; or
 1150 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 1151 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if
 1152 less than five years have elapsed between the date of conviction and the date of application for
 1153 employment or if the applicant continues to be on probation or parole or has failed to pay required
 1154 court costs:
 1155 Possession of controlled substances, as set out in § 18.2-250;
 1156 Possession of flunitrazepam, as set out in § 18.2-251.2;
 1157 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 1158 Conspiracy, as set out in § 18.2-256; or
 1159 Attempts, as set out in § 18.2-257;
 1160 5. Crimes involving health or safety, or an equivalent offense in another state:
 1161 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 1162 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 1163 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 1164 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 1165 of § 18.2-300; or
 1166 Failing to secure medical attention for an injured child, as set out in § 18.2-314;

1167 6. Crimes involving morals and decency, or an equivalent offense in another state:
1168 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
1169 Crimes against nature, as set out in § 18.2-361, involving children;
1170 Incest, as set out in § 18.2-366;
1171 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
1172 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
1173 Abuse or neglect of children, as set out in § 18.2-371.1;
1174 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
1175 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
1176 § 18.2-374.1.1;
1177 Use of communications systems to facilitate certain crimes involving children, as set out in
1178 § 18.2-374.3; or
1179 Employing or permitting a minor to assist in an act constituting an offense under Article 5
1180 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;
1181 7. Crimes against the administration of justice, or an equivalent offense in another state:
1182 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or
1183 Escape from jail, as set out in § 18.2-477; or
1184 8. Any felony offense by prisoners as set out in § 53.1-203.
1185 C. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that
1186 no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied
1187 employment because of information appearing on his criminal history record and the applicant disputes
1188 the information upon which the denial was based, the Central Criminal Records Exchange shall, upon
1189 written request, furnish to the applicant the procedures for obtaining a copy of the criminal history
1190 record from the FBI. The information provided to the state facility or Department shall not be
1191 disseminated except as provided in this section.
1192 D. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or
1193 Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any
1194 investigation of child abuse or neglect undertaken on them.
1195 E. The Board may adopt regulations to comply with the provisions of this section. Copies of any
1196 information received by the state facility or Department pursuant to this section shall be available to the
1197 Department and to the applicable state facility but shall not be disseminated further, except as permitted
1198 by state or federal law. The cost of obtaining the criminal history record and the central registry
1199 information shall be borne by the applicant, unless the Department or state facility decides to pay the
1200 cost.
1201 F. In any case in which a question arises involving the interpretation of provisions governing
1202 criminal history background checks of applicants for employment and determinations as to whether an
1203 individual applicant is eligible for employment, the Commissioner shall request and the Attorney
1204 General shall provide an advisory opinion addressing the question raised
1205 **§ 37.2-408.1. Background check required; children's residential facilities.**
1206 A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or
1207 providing services on a regular basis, every children's residential facility that is regulated or operated by
1208 the Department shall require any person who (i) accepts a position of employment at such a facility who
1209 was not employed by that facility prior to July 1, 2008, (ii) volunteers for such a facility on a regular
1210 basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such
1211 facility prior to July 1, 2008, or (iii) provides contractual services directly to a juvenile for such facility
1212 on a regular basis and will be alone with a juvenile in the performance of his duties who did not
1213 provide such services prior to July 1, 2008, to submit to fingerprinting and to provide personal
1214 descriptive information, to be forwarded along with the person's fingerprints through the Central
1215 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal
1216 history record information regarding the person. The children's residential facility shall inform the person
1217 that he is entitled to obtain a copy of any background check report and to challenge the accuracy and
1218 completeness of any such report and obtain a prompt resolution before a final determination is made of
1219 the person's eligibility to have responsibility for the safety and well-being of children. The person shall
1220 provide the children's residential facility with a written statement or affirmation disclosing whether he
1221 has ever been convicted of or is the subject of pending charges for any offense within or outside the
1222 Commonwealth. The results of the criminal history background check must be received prior to
1223 permitting a person to work with children.
1224 The Central Criminal Records Exchange, upon receipt of a person's record or notification that no
1225 record exists, shall forward it to the state agency that operates or regulates the children's residential
1226 facility with which the person is affiliated. The state agency shall, upon receipt of a person's record
1227 lacking disposition data, conduct research in whatever state and local recordkeeping systems are
1228 available in order to obtain complete data. The state agency shall report to the children's facility whether

the person 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 Department 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; 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;
 - Assault and 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;
 - Strangulation of another, as set out in § 18.2-51.6;
 - 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;

- 1290 *Hazing of youth gang members, as set out in § 18.2-55.1;*
- 1291 *Hazing, as set out in § 18.2-56;*
- 1292 *Reckless handling of firearms, as set out in § 18.2-56.1;*
- 1293 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
- 1294 *Assault and battery, as set out in § 18.2-57;*
- 1295 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
- 1296 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
- 1297 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
- 1298 *Robbery, as set out in § 18.2-58;*
- 1299 *Carjacking, as set out in § 18.2-58.1;*
- 1300 *Extortion by threat, as set out in § 18.2-59;*
- 1301 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 1302 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 1303 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 1304 *Rape, as set out in § 18.2-61;*
- 1305 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 1306 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 1307 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 1308 *set out in § 18.2-64.2;*
- 1309 *Forcible sodomy, as set out in § 18.2-67.1;*
- 1310 *Object sexual penetration, as set out in § 18.2-67.2;*
- 1311 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 1312 *Sexual battery, as set out in § 18.2-67.4;*
- 1313 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 1314 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 1315 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 1316 *battery, as set out in § 18.2-67.5;*
- 1317 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
- 1318 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 1319 *2. Crimes against property, or an equivalent offense in another state:*
- 1320 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 1321 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 1322 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 1323 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 1324 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 1325 *set out in § 18.2-82;*
- 1326 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 1327 *such buildings, etc., as set out in § 18.2-83;*
- 1328 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 1329 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 1330 *§ 18.2-85;*
- 1331 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 1332 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 1333 *§ 18.2-87;*
- 1334 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
- 1335 *§ 18.2-87.1;*
- 1336 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 1337 *Burglary, as set out in § 18.2-89;*
- 1338 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 1339 *§ 18.2-90;*
- 1340 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 1341 *set out in § 18.2-91;*
- 1342 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
- 1343 *§ 18.2-92;*
- 1344 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 1345 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 1346 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 1347 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 1348 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 1349 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 1350 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 1351 *Allowing a minor or incapacitated person to be present during manufacture or attempted*

1352 manufacture of methamphetamine, as set out in § 18.2-248.02;
 1353 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1354 distribute methamphetamine, as set out in § 18.2-248.03;
 1355 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out
 1356 in § 18.2-248.1;
 1357 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1358 distribute synthetic cannabinoids as set out in § 18.2-248.1:1;
 1359 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 1360 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;
 1361 Distribution of flunitrazepam, as set out in § 18.2-251.2;
 1362 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 1363 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
 1364 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
 1365 Conspiracy, as set out in § 18.2-256;
 1366 Attempts, as set out in § 18.2-257;
 1367 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
 1368 in § 18.2-258;
 1369 Maintaining a fortified drug house, as set out in § 18.2-258.02;
 1370 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
 1371 as set out in § 18.2-258.1; or
 1372 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 1373 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if
 1374 less than five years have elapsed between the date of conviction and the date of application for
 1375 employment or if the applicant continues to be on probation or parole or has failed to pay required
 1376 court costs:
 1377 Possession of controlled substances, as set out in § 18.2-250;
 1378 Possession of flunitrazepam, as set out in § 18.2-251.2;
 1379 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 1380 Conspiracy, as set out in § 18.2-256; or
 1381 Attempts, as set out in § 18.2-257;
 1382 5. Crimes involving health or safety, or an equivalent offense in another state:
 1383 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 1384 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 1385 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 1386 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 1387 of § 18.2-300; or
 1388 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 1389 6. Crimes involving morals and decency, or an equivalent offense in another state:
 1390 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 1391 Crimes against nature, as set out in § 18.2-361, involving children;
 1392 Incest, as set out in § 18.2-366;
 1393 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 1394 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 1395 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 1396 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 1397 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 1398 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 1399 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 1400 Abuse or neglect of children, as set out in § 18.2-371.1;
 1401 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 1402 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 1403 § 18.2-374.1:1;
 1404 Use of communications systems to facilitate certain crimes involving children, as set out in
 1405 § 18.2-374.3; or
 1406 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 1407 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;
 1408 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 1409 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 1410 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 1411 Against Minors Registry established pursuant to Chapter 0 (§ 9.1-900 et seq.) of Title 9.1;
 1412 7. Crimes against the administration of justice, or an equivalent offense in another state:

1413 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
1414 *Escape from jail, as set out in § 18.2-477; or*
1415 *8. Any felony offense by prisoners as set out in § 53.1-203.*

1416 The provisions of this section also shall apply to structured residential programs, excluding secure
1417 detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for
1418 intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or
1419 supervision.

1420 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
1421 compensated employment or for volunteer or contractual service purposes persons who have been
1422 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have
1423 elapsed following the conviction, unless the person committed such offense in the scope of his
1424 employment, volunteer, or contractual services.

1425 If the person is denied employment, or the opportunity to volunteer or provide services, at a
1426 children's residential facility because of information appearing on his criminal history record, and the
1427 person disputes the information upon which the denial was based, upon written request of the person the
1428 state agency shall furnish the person the procedures for obtaining his criminal history record from the
1429 Federal Bureau of Investigation. If the person has been permitted to assume duties that do not involve
1430 contact with children pending receipt of the report, the children's residential facility is not precluded
1431 from suspending the person from his position pending a final determination of the person's eligibility to
1432 have responsibility for the safety and well-being of children. The information provided to the children's
1433 residential facility shall not be disseminated except as provided in this section.

1434 C. Those persons listed in clauses (i), (ii), and (iii) of subsection A also shall authorize the children's
1435 residential facility to obtain a copy of information from the central registry maintained pursuant to
1436 § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person shall provide
1437 the children's residential facility with a written statement or affirmation disclosing whether he has ever
1438 been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The
1439 children's residential facility shall receive the results of the central registry search prior to permitting a
1440 person to work alone with children. Children's residential facilities regulated or operated by the
1441 Department shall not hire for compensated employment, or allow to volunteer or provide contractual
1442 services, persons who have a founded case of child abuse or neglect.

1443 D. The cost of obtaining the criminal history record and the central registry information shall be
1444 borne by the person unless the children's residential facility, at its option, decides to pay the cost.

1445 E. *In any case in which a question arises involving the interpretation of provisions governing*
1446 *criminal history background checks of applicants for employment or to serve as a volunteer and*
1447 *determinations as to whether an individual applicant is eligible for employment or to serve as a*
1448 *volunteer, the Commissioner shall request and the Attorney General shall provide an advisory opinion*
1449 *addressing the question raised.*

1450 **§ 63.2-901.1. Criminal history and central registry check for placements of children.**

1451 A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations
1452 adopted by the Board, criminal history record information from the Central Criminal Records Exchange
1453 and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results
1454 of a search of the child abuse and neglect central registry of any individual with whom the local board
1455 or licensed child-placing agency is considering placing a child on an emergency, temporary or
1456 permanent basis, including the birth parent of a child in foster care placement, unless the birth parent
1457 has revoked an entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth
1458 parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians
1459 pursuant to § 63.2-900. The local board or licensed child-placing agency shall also obtain such
1460 background checks on all adult household members residing in the home of the individual with whom
1461 the child is to be placed pursuant to subsection B. Such state criminal records or registry search shall be
1462 at no cost to the individual. The local board or licensed child-placing agency shall pay for the national
1463 fingerprint criminal history record check or may require such individual to pay the cost of the
1464 fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees
1465 assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for
1466 responding to requests required by this section.

1467 B. Background checks pursuant to this section require the following:

1468 1. A sworn statement or affirmation disclosing whether or not the individual has a criminal
1469 conviction or is the subject of any pending criminal charges within or outside the Commonwealth and
1470 whether or not the individual has been the subject of a founded complaint of child abuse or neglect
1471 within or outside the Commonwealth;

1472 2. That the individual submit to fingerprinting and provide personal descriptive information to be
1473 forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the
1474 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:

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;
 - Strangulation of another, as set out in § 18.2-51.6;
 - 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;

- 1536 *Forcible sodomy, as set out in § 18.2-67.1;*
- 1537 *Object sexual penetration, as set out in § 18.2-67.2;*
- 1538 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 1539 *Sexual battery, as set out in § 18.2-67.4;*
- 1540 *Infected sexual battery, as set out in § 18.2-67.4:1;*
- 1541 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;*
- 1542 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 1543 *battery, as set out in § 18.2-67.5;*
- 1544 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1; or*
- 1545 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
- 1546 *2. Crimes against property, or an equivalent offense in another state:*
- 1547 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 1548 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 1549 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 1550 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 1551 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 1552 *set out in § 18.2-82;*
- 1553 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 1554 *such buildings, etc., as set out in § 18.2-83;*
- 1555 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 1556 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 1557 *§ 18.2-85;*
- 1558 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 1559 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 1560 *§ 18.2-87;*
- 1561 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
- 1562 *§ 18.2-87.1;*
- 1563 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 1564 *Burglary, as set out in § 18.2-89;*
- 1565 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 1566 *§ 18.2-90;*
- 1567 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 1568 *set out in § 18.2-91;*
- 1569 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
- 1570 *§ 18.2-92;*
- 1571 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 1572 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 1573 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 1574 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 1575 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 1576 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 1577 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 1578 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 1579 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 1580 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 1581 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 1582 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
- 1583 *in § 18.2-248.1;*
- 1584 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 1585 *distribute synthetic cannabinoids as set out in § 18.2-248.1:1;*
- 1586 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 1587 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
- 1588 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
- 1589 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
- 1590 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
- 1591 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
- 1592 *Conspiracy, as set out in § 18.2-256;*
- 1593 *Attempts, as set out in § 18.2-257;*
- 1594 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
- 1595 *in § 18.2-258;*
- 1596 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
- 1597 *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:
 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;
 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.

1659 D. Any individual with whom the local board is considering placing a child on an emergency basis
 1660 shall submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam Walsh
 1661 Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or
 1662 neglect. The search of the central registry must occur prior to emergency placement. Such central
 1663 registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall
 1664 provide a written statement of affirmation disclosing whether he has ever been the subject of a founded
 1665 case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not
 1666 approve individuals with a founded complaint of child abuse as foster or adoptive parents.

1667 E. The child-placing agency shall not approve a foster or adoptive home if any individual has a
 1668 record of an offense defined in ~~§ 63.2-1719~~ *been convicted of a crime listed in subsection B*, or a
 1669 founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42
 1670 U.S.C.S. 16901 et seq. A child-placing agency may approve as ~~an adoptive or~~ foster parent an
 1671 applicant convicted of not more than one misdemeanor as set out in § 18.2-57, not involving the abuse,
 1672 neglect, or moral turpitude of a minor, provided 10 years have elapsed following the conviction.

1673 F. *Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
 1674 *may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a*
 1675 *dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by*
 1676 *the Governor, provided 25 years have elapsed following the conviction.*

1677 G. *Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
 1678 *may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who*
 1679 *has had his civil rights restored by the Governor, provided 10 years have elapsed following the*
 1680 *conviction.*

1681 H. A local board or child-placing agency may approve as a kinship foster care parent an applicant
 1682 convicted of the following offenses, provided that 10 years have elapsed from the date of the conviction
 1683 and the local board or child-placing agency makes a specific finding that approving the kinship foster
 1684 care placement would not adversely affect the safety and well-being of the child: ~~(i) a felony conviction~~
 1685 ~~for possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; but not~~
 1686 ~~including a felony conviction for possession of drugs with the intent to distribute; (ii) a misdemeanor~~
 1687 ~~conviction for arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) an~~
 1688 ~~equivalent offense in another state:~~

1689 1. *Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*

1690 *Possession of controlled substances, as set out in § 18.2-250;*

1691 *Possession of flunitrazepam, as set out in § 18.2-251.2;*

1692 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*

1693 *Conspiracy, as set out in § 18.2-256; or*

1694 *Attempts, as set out in § 18.2-257;*

1695 2. *A misdemeanor offense relating to arson, or an equivalent offense in another state:*

1696 *Burning or destroying any other building or structure, as set out in § 18.2-80;*

1697 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*

1698 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 1699 *§ 18.2-87;*

1700 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 1701 *§ 18.2-87.1; or*

1702 *Carelessly damaging property by fire, as set out in § 18.2-88.*

1703 **§ 63.2-1601.1. Criminal history check for agency approved providers of services to adults.**

1704 A. Each local board shall obtain, in accordance with regulations adopted by the Board, criminal
 1705 history record information from the Central Criminal Records Exchange of any individual the local
 1706 board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult
 1707 foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on
 1708 all adult household members residing in the home of the individual with whom the adult is to be placed.
 1709 The local board shall not hire for compensated employment any persons who have been convicted of an
 1710 offense as defined in ~~§ 63.2-1719~~ *any of the following or adjudicated delinquent based on one of the*
 1711 *following if such delinquency was based on a crime that would have been a felony if committed by an*
 1712 *adult:*

1713 1. *Crimes against the person, or an equivalent offense in another state:*

1714 *Capital murder, as set out in § 18.2-31;*

1715 *First or second degree murder, as set out in § 18.2-32;*

1716 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

1717 *Killing of a fetus, as set out in § 18.2-32.2;*

1718 *Felony homicide, as set out in § 18.2-33;*

1719 *Voluntary manslaughter, as set out in § 18.2-35;*

1720 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

- 1721 Malicious wounding by mob, as set out in § 18.2-41;
- 1722 Assault or battery by mob, as set out in § 18.2-42;
- 1723 Abduction, as set out in subsection A or B of § 18.2-47;
- 1724 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
- 1725 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 1726 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 1727 emergency medical service providers, as set out in § 18.2-51.1;
- 1728 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 1729 Reckless endangerment, as set out in § 18.2-51.3;
- 1730 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 1731 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 1732 § 18.2-51.5;
- 1733 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 1734 as set out in § 18.2-52;
- 1735 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 1736 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 1737 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 1738 Attempts to poison, as set out in § 18.2-54.1;
- 1739 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 1740 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 1741 probationers, or adult parolees, as set out in § 18.2-55;
- 1742 Hazing of youth gang members, as set out in § 18.2-55.1;
- 1743 Hazing, as set out in § 18.2-56;
- 1744 Reckless handling of firearms, as set out in § 18.2-56.1;
- 1745 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 1746 Assault and battery, as set out in § 18.2-57;
- 1747 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 1748 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 1749 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 1750 Robbery, as set out in § 18.2-58;
- 1751 Carjacking, as set out in § 18.2-58.1;
- 1752 Extortion by threat, as set out in § 18.2-59;
- 1753 Threat of death or bodily injury, as set out in § 18.2-60;
- 1754 Any felony stalking offense, as set out in § 18.2-60.3;
- 1755 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 1756 Rape, as set out in § 18.2-61;
- 1757 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 1758 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 1759 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 1760 set out in § 18.2-64.2;
- 1761 Forcible sodomy, as set out in § 18.2-67.1;
- 1762 Object sexual penetration, as set out in § 18.2-67.2;
- 1763 Aggravated sexual battery, as set out in § 18.2-67.3;
- 1764 Sexual battery, as set out in § 18.2-67.4;
- 1765 Infected sexual battery, as set out in § 18.2-67.4.1;
- 1766 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 1767 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 1768 battery, as set out in § 18.2-67.5;
- 1769 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or
- 1770 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 1771 2. Crimes against property, or an equivalent offense in another state:
- 1772 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 1773 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 1774 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 1775 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 1776 Burning building or structure while in such building or structure with intent to commit a felony, as
- 1777 set out in § 18.2-82;
- 1778 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 1779 such buildings, etc., as set out in § 18.2-83;
- 1780 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 1781 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in

- 1782 § 18.2-85;
1783 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
1784 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
1785 *§ 18.2-87;*
1786 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
1787 *§ 18.2-87.1;*
1788 *Carelessly damaging property by fire, as set out in § 18.2-88;*
1789 *Burglary, as set out in § 18.2-89;*
1790 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
1791 *§ 18.2-90;*
1792 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
1793 *set out in § 18.2-91;*
1794 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
1795 *§ 18.2-92;*
1796 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
1797 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
1798 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
1799 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
1800 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
1801 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
1802 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
1803 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
1804 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
1805 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
1806 *distribute methamphetamine, as set out in § 18.2-248.03;*
1807 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
1808 *in § 18.2-248.1;*
1809 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
1810 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
1811 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
1812 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
1813 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
1814 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
1815 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
1816 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
1817 *Conspiracy, as set out in § 18.2-256;*
1818 *Attempts, as set out in § 18.2-257;*
1819 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
1820 *in § 18.2-258;*
1821 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
1822 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
1823 *as set out in § 18.2-258.1; or*
1824 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
1825 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
1826 *Possession of controlled substances, as set out in § 18.2-250;*
1827 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
1828 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
1829 *Conspiracy, as set out in § 18.2-256; or*
1830 *Attempts, as set out in § 18.2-257;*
1831 *5. Crimes involving health or safety, or an equivalent offense in another state:*
1832 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
1833 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
1834 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*
1835 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*
1836 *of § 18.2-300; or*
1837 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
1838 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
1839 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
1840 *Crimes against nature, as set out in § 18.2-361, involving children;*
1841 *Incest, as set out in § 18.2-366;*
1842 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
1843 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*

1844 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 1845 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 1846 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 1847 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 1848 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 1849 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 1850 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 1851 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 1852 *§ 18.2-374.1:1;*
 1853 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 1854 *§ 18.2-374.3;*
 1855 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 1856 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 1857 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 1858 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 1859 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 1860 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 1861 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
 1862 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
 1863 *Escape from jail, as set out in § 18.2-477;*
 1864 *8. Any felony offense by prisoners as set out in § 53.1-203; or*
 1865 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*
 1866 *elapsed between the date of conviction and the date of application. If approval as an agency approved*
 1867 *provider is denied because of information obtained through a Central Criminal Records Exchange search,*
 1868 *the local board, upon request, shall provide a copy of the information obtained to the individual who is*
 1869 *the subject of the search. Further dissemination of the criminal history record information is prohibited.*
 1870 *B. In emergency circumstances, each local board may obtain from a criminal justice agency the*
 1871 *criminal history record information from the Central Criminal Records Exchange for the criminal records*
 1872 *search authorized by this section. The provision of home-based services shall be immediately terminated*
 1873 *or the adult shall be removed from the home immediately, if any adult resident has been convicted of a*
 1874 *barrier crime as described in § 63.2-1719 subsection A.*
 1875 **§ 63.2-1704. Voluntary registration of family day homes; inspections; investigation upon receipt**
 1876 **of complaint; revocation or suspension of registration.**
 1877 *A. Any person who maintains a family day home serving fewer than six children, exclusive of the*
 1878 *provider's own children and any children who reside in the home, may apply for voluntary registration.*
 1879 *An applicant for voluntary registration shall file with the Commissioner, prior to beginning any such*
 1880 *operation and thereafter biennially, an application which shall include, but not be limited to, the*
 1881 *following:*
 1882 *1. The name, address, phone number, and social security number of the person maintaining the*
 1883 *family day home;*
 1884 *2. The number and ages of the children to receive care;*
 1885 *3. A sworn statement or affirmation in which the applicant attests to the accuracy of the information*
 1886 *submitted to the Commissioner; and*
 1887 *4. Documentation that the background check requirements for registered child welfare agencies in*
 1888 *Article 3 (§ 63.2-1719 63.2-1720 et seq.) of this chapter have been met.*
 1889 *B. The Board shall adopt regulations for voluntarily registered family day homes that include, but are*
 1890 *not limited to:*
 1891 *1. The criteria and process for the approval of the certificate of registration;*
 1892 *2. Requirements for a self-administered health and safety guidelines evaluation checklist;*
 1893 *3. A schedule for fees to be paid by the providers to the contract organization or to the Department*
 1894 *if it implements the provisions of this section for processing applications for the voluntary registration of*
 1895 *family day homes. The charges collected shall be maintained for the purpose of recovering*
 1896 *administrative costs incurred in processing applications and certifying such homes as eligible or*
 1897 *registered;*
 1898 *4. The criteria and process for the renewal of the certificate of registration; and*
 1899 *5. The requirement that upon receipt of a complaint concerning a registered family day home, the*
 1900 *Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary, of*
 1901 *the activities, services, and facilities. The person who maintains such home shall afford the*
 1902 *Commissioner reasonable opportunity to inspect the operator's facilities and records and to interview any*
 1903 *employees and any child or other person within his custody or control. Whenever a registered family*
 1904 *day home is determined by the Commissioner to be in noncompliance with the regulations for*

1905 voluntarily registered family day homes, the Commissioner shall give reasonable notice to the operator
1906 of the nature of the noncompliance and may thereafter revoke or suspend the registration.

1907 C. Upon receiving the application on forms prescribed by the Commissioner, and after having
1908 determined that the home has satisfied the requirements of the regulations for voluntarily registered
1909 family day homes, the Commissioner shall issue a certificate of registration to the family day home.

1910 D. The Commissioner shall contract in accordance with the requirements of the Virginia Public
1911 Procurement Act (§ 2.2-4300 et seq.) with qualified local agencies and community organizations to
1912 review applications and certify family day homes as eligible for registration, pursuant to the regulations
1913 for voluntarily registered family day homes. If no qualified local agencies or community organizations
1914 are available, the Commissioner shall implement the provisions of this section. "Qualified" means
1915 demonstrated ability to provide sound financial management and administrative services including
1916 application processing, maintenance of records and reports, technical assistance, consultation, training,
1917 monitoring, and random inspections.

1918 E. The scope of services in contracts shall include:

1919 1. The identification of family day homes which may meet the standards for voluntary registration
1920 provided in subsection A; and

1921 2. A requirement that the contract organization shall provide administrative services, including, but
1922 not limited to, processing applications for the voluntary registration of family day homes; certifying such
1923 homes as eligible for registration; providing technical assistance, training and consultation with family
1924 day homes; ensuring providers' compliance with the regulations for voluntarily registered family day
1925 homes, including monitoring and random inspections; and maintaining permanent records regarding all
1926 family day homes which it may certify as eligible for registration.

1927 F. The contract organization, upon determining that a family day home has satisfied the requirements
1928 of the regulations for voluntarily registered family day homes, shall certify the home as eligible for
1929 registration on forms prescribed by the Commissioner. The Commissioner, upon determining that
1930 certification has been properly issued, may register the family day home.

1931 G. The provisions of this section shall not apply to any family day home located in a county, city, or
1932 town in which the governing body provides by ordinance for the regulation and licensing of persons
1933 who provide child-care services for compensation and for the regulation and licensing of child-care
1934 facilities pursuant to the provisions of § 15.2-914.

1935 **§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited**
1936 **private schools; provisional certification; annual statement and documentary evidence required;**
1937 **enforcement; injunctive relief.**

1938 A. A preschool or nursery school program operated by a private school accredited by a statewide
1939 accrediting organization recognized by the Board of Education or a private school or preschool that
1940 offers to preschool-aged children a program accredited by the National Association for the Education of
1941 Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools
1942 International; the American Association of Christian Schools; the National Early Childhood Program
1943 Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and
1944 Programs; the International Academy for Private Education; the American Montessori Society; the
1945 International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the
1946 National Accreditation Commission and is recognized by the Board of Education, shall be exempt from
1947 licensure under this subtitle if it complies with the provisions of this section and meets the requirements
1948 of subsection B, C or D.

1949 B. A school described in subsection A shall meet the following conditions in order to be exempt
1950 under this subsection:

1951 1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory
1952 school attendance laws, and children below the age of compulsory school attendance also participate in
1953 such instructional programs;

1954 2. The instructional programs for children of and below the age of eligibility for school attendance
1955 share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction,
1956 and (iv) professional training and individual teacher certification standards, all of which are required by
1957 a state-recognized accrediting organization;

1958 3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of
1959 three-year-old to six-year-old children and the number of pupils in the preschool program does not
1960 exceed 15 pupils for each instructional adult;

1961 4. The instructional program contemplates a three-to-four-year learning cycle under a common
1962 pedagogy; and

1963 5. Children below the age of eligibility for kindergarten attendance do not attend the instructional
1964 program for more than four hours per day.

1965 C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment
1966 ratio at any one time during the current school year of five children age five or above to one

four-year-old child as long as no child in attendance is under age four and the number of pupils in the preschool program does not exceed 12 pupils for each instructional adult.

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

1. The school offers instructional classes and has been in operation since January 1984.
2. The school does not hold itself out as a child care center, child day center, or child day program.
3. Children enrolled in the school are at least three years of age and do not attend more than (i) three hours per day and (ii) five days per week.
4. The enrolled children attend only one program offered by the school per day.
5. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety and welfare of the children, such as but not limited to space requirements, and requires annual inspections.

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

1. Intent to operate a certified preschool program;
2. Documentary evidence that the school has been accredited as provided in subsection A;
3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program the fact of the program's exemption from licensure;

4. Documentary evidence that the physical facility in which the preschool program will be conducted has been inspected (i) before initial certification by the local building official and (ii) within the 12-month period prior to initial certification and at least annually thereafter by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an inspection report which documents that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code;

5. Documentation that the school has disclosed the following in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program, and in a written statement available to the general public: (i) the school facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff health requirements, and (iv) a description of the school's public liability insurance, if any;

6. Qualifications of school personnel who work in the preschool program; and

7. Documentary evidence that the private school requires all employees of the preschool and other school employees who have contact with the children enrolled in the preschool program to obtain a criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or continued employment. The school shall not hire or continue employment of any such person who is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth or has an offense specified in § 63.2-1719 been convicted of any of the following:

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;
 - Strangulation of another, as set out in § 18.2-51.6;

- 2028 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
 2029 *as set out in § 18.2-52;*
 2030 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*
 2031 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*
 2032 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
 2033 *Attempts to poison, as set out in § 18.2-54.1;*
 2034 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*
 2035 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
 2036 *probationers, or adult parolees, as set out in § 18.2-55;*
 2037 *Hazing of youth gang members, as set out in § 18.2-55.1;*
 2038 *Hazing, as set out in § 18.2-56;*
 2039 *Reckless handling of firearms, as set out in § 18.2-56.1;*
 2040 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
 2041 *Assault and battery, as set out in § 18.2-57;*
 2042 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
 2043 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
 2044 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
 2045 *Robbery, as set out in § 18.2-58;*
 2046 *Carjacking, as set out in § 18.2-58.1;*
 2047 *Extortion by threat, as set out in § 18.2-59;*
 2048 *Threat of death or bodily injury, as set out in § 18.2-60;*
 2049 *Any felony stalking offense, as set out in § 18.2-60.3;*
 2050 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
 2051 *Rape, as set out in § 18.2-61;*
 2052 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
 2053 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
 2054 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
 2055 *set out in § 18.2-64.2;*
 2056 *Forcible sodomy, as set out in § 18.2-67.1;*
 2057 *Object sexual penetration, as set out in § 18.2-67.2;*
 2058 *Aggravated sexual battery, as set out in § 18.2-67.3;*
 2059 *Sexual battery, as set out in § 18.2-67.4;*
 2060 *Infected sexual battery, as set out in § 18.2-67.4.1;*
 2061 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
 2062 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 2063 *battery, as set out in § 18.2-67.5;*
 2064 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
 2065 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
 2066 *2. Crimes against property, or an equivalent offense in another state:*
 2067 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 2068 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 2069 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 2070 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 2071 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 2072 *set out in § 18.2-82;*
 2073 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 2074 *such buildings, etc., as set out in § 18.2-83;*
 2075 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 2076 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 2077 *§ 18.2-85;*
 2078 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 2079 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 2080 *§ 18.2-87;*
 2081 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 2082 *§ 18.2-87.1;*
 2083 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2084 *Burglary, as set out in § 18.2-89;*
 2085 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 2086 *§ 18.2-90;*
 2087 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 2088 *set out in § 18.2-91;*
 2089 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*

2090 § 18.2-92;
 2091 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 2092 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 2093 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 2094 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 2095 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2096 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 2097 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 2098 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 2099 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 2100 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2101 *distribute methamphetamine, as set out in § 18.2-248.03;*
 2102 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 2103 *in § 18.2-248.1;*
 2104 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2105 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
 2106 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2107 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 2108 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 2109 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2110 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 2111 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 2112 *Conspiracy, as set out in § 18.2-256;*
 2113 *Attempts, as set out in § 18.2-257;*
 2114 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 2115 *in § 18.2-258;*
 2116 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 2117 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 2118 *as set out in § 18.2-258.1; or*
 2119 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 2120 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 2121 *Possession of controlled substances, as set out in § 18.2-250;*
 2122 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 2123 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2124 *Conspiracy, as set out in § 18.2-256; or*
 2125 *Attempts, as set out in § 18.2-257;*
 2126 *5. Crimes involving health or safety, or an equivalent offense in another state:*
 2127 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2128 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2129 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*
 2130 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*
 2131 *of § 18.2-300; or*
 2132 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2133 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
 2134 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2135 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2136 *Incest, as set out in § 18.2-366;*
 2137 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2138 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2139 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2140 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2141 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2142 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2143 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2144 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2145 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2146 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 2147 *§ 18.2-374.1.1;*
 2148 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 2149 *§ 18.2-374.3;*
 2150 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*

2151 (*§ 18.2-372 et seq.*) of Chapter 8 of Title 18.2, as set out in *§ 18.2-379*; or
2152 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
2153 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
2154 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
2155 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
2156 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
2157 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
2158 *Escape from jail, as set out in § 18.2-477;*
2159 *8. Any felony offense by prisoners as set out in § 53.1-203; or*
2160 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*
2161 *elapsed between the date of conviction and the date of application.*
2162 All accredited private schools seeking certification of preschool programs shall file such information
2163 on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of
2164 accredited private schools which comply with the provisions of subsection A.
2165 F. A preschool program of a private school that has not been accredited as provided in subsection A,
2166 or which has not provided documentation to the Commissioner that it has initiated the accreditation
2167 process, shall be subject to licensure.
2168 The Commissioner shall issue a provisional certificate to a private school which provides
2169 documentation to the Commissioner that it has initiated the accreditation process. The provisional
2170 certificate shall permit the school to operate its preschool program during the accreditation process
2171 period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A
2172 provisional certificate may be renewed up to an additional year if the accrediting organization provides a
2173 statement indicating it has visited the school within the previous six months and the school has made
2174 sufficient progress. Such programs shall not be subject to licensure during the provisional certification
2175 period.
2176 G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner
2177 shall revoke the provisional certification and the program shall thereafter be subject to licensure.
2178 H. If the preschool program of a private school which is accredited as provided in subsection A fails
2179 to file the statement and the required documentary evidence, the Commissioner shall notify the school of
2180 its noncompliance and may thereafter take such action as he determines appropriate, including notice
2181 that the program is required to be licensed.
2182 I. The revocation or denial of the certification of a preschool program shall be subject to appeal
2183 pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a
2184 final agency decision shall be in accordance with the provisions of the Administrative Process Act.
2185 J. Any person who has reason to believe that a private school falling within the provisions of this
2186 section is in noncompliance with any applicable requirement of this section may report the same to the
2187 Department, the local department, the local health department, or the local fire marshal, each of which
2188 may inspect the school for noncompliance, give reasonable notice to the school of the nature of its
2189 noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin
2190 the operation of the preschool program.
2191 K. Upon receipt of a complaint concerning a certified preschool program of an accredited private
2192 school, or of a private school to which provisional certification has been issued, if for good cause shown
2193 there is reason to suspect that the school is in noncompliance with any provision of this section or the
2194 health or safety of the children attending the preschool program is in danger, the Commissioner shall
2195 cause an investigation to be made, including on-site visits as he deems necessary of the services,
2196 personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable
2197 opportunity to inspect the school's program, records, and facility, and to interview the employees and
2198 any child or parent or guardian of a child who is or has been enrolled in the preschool program. If,
2199 upon completion of the investigation, it is determined that the school is in noncompliance with the
2200 provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of
2201 its noncompliance and thereafter may take appropriate action as provided by law, including a suit to
2202 enjoin the operation of the preschool program.
2203 L. Failure of a private school to comply with the provisions of this section, or a finding that the
2204 health and safety of the children attending the preschool program are in clear and substantial danger
2205 upon the completion of an investigation, shall be grounds for revocation of the certification issued
2206 pursuant to this section.
2207 M. If a private school operates a child day program outside the scope of its instructional classes
2208 during the school year or operates a child day program during the summer, the child day program shall
2209 be subject to licensure under the regulations adopted pursuant to § 63.2-1734.
2210 N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of
2211 a private school from obtaining a license pursuant to this subtitle.
2212 **§ 63.2-1719.1. Attorney general's advisory opinion.**

In any case in which a question arises involving the interpretation of provisions governing criminal history background checks of applicants for employment or to serve as a volunteer, or for a license or registration and determinations as to whether an individual applicant is eligible for employment or to serve as a volunteer, or to receive a license or registration, the Commissioner shall request and the Attorney General shall provide an advisory opinion addressing the question raised.

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

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

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;

Strangulation of another, as set out in § 18.2-51.6;

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;

- 2274 *Infected sexual battery, as set out in § 18.2-67.4:1;*
 2275 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;*
 2276 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 2277 *battery, as set out in § 18.2-67.5;*
 2278 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1; or*
 2279 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
 2280 *2. Crimes against property, or an equivalent offense in another state:*
 2281 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 2282 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 2283 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 2284 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 2285 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 2286 *set out in § 18.2-82;*
 2287 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 2288 *such buildings, etc., as set out in § 18.2-83;*
 2289 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 2290 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 2291 *§ 18.2-85;*
 2292 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 2293 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 2294 *§ 18.2-87;*
 2295 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 2296 *§ 18.2-87.1;*
 2297 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2298 *3. Crimes involving health or safety, or an equivalent offense in another state:*
 2299 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2300 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2301 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*
 2302 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*
 2303 *of § 18.2-300; or*
 2304 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2305 *4. Crimes involving morals and decency, or an equivalent offense in another state:*
 2306 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2307 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2308 *Incest, as set out in § 18.2-366;*
 2309 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2310 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2311 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2312 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2313 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 2314 *§ 18.2-374.1:1;*
 2315 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 2316 *§ 18.2-374.3; or*
 2317 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 2318 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*
 2319 *5. Crimes against the administration of justice, or an equivalent offense in another state:*
 2320 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
 2321 *Escape from jail, as set out in § 18.2-477; or*
 2322 *6. Any felony offense by prisoners as set out in § 53.1-203.*
 2323 *B. A child welfare agency licensed or registered in accordance with the provisions of this chapter, or*
 2324 *family day homes approved by family day systems, shall not hire for compensated employment persons*
 2325 *who are the subject of a founded complaint of child abuse or neglect within or outside the*
 2326 *Commonwealth or have an offense as defined in § 63.2-1719 been convicted of the following:*
 2327 *1. Crimes against the person, or an equivalent offense in another state:*
 2328 *Capital murder, as set out in § 18.2-31;*
 2329 *First or second degree murder, as set out in § 18.2-32;*
 2330 *Murder of a pregnant woman, as set out in § 18.2-32.1;*
 2331 *Killing of a fetus, as set out in § 18.2-32.2;*
 2332 *Felony homicide, as set out in § 18.2-33;*
 2333 *Voluntary manslaughter, as set out in § 18.2-35;*
 2334 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*
 2335 *Malicious wounding by mob, as set out in § 18.2-41;*

- 2336 Assault or battery by mob, as set out in § 18.2-42;
- 2337 Abduction, as set out in subsection A or B of § 18.2-47;
- 2338 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
- 2339 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 2340 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 2341 emergency medical service providers, as set out in § 18.2-51.1;
- 2342 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 2343 Reckless endangerment, as set out in § 18.2-51.3;
- 2344 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 2345 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 2346 § 18.2-51.5;
- 2347 Strangulation of another, as set out in § 18.2-51.6;
- 2348 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 2349 as set out in § 18.2-52;
- 2350 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 2351 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 2352 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 2353 Attempts to poison, as set out in § 18.2-54.1;
- 2354 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 2355 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 2356 probationers, or adult parolees, as set out in § 18.2-55;
- 2357 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2358 Hazing, as set out in § 18.2-56;
- 2359 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2360 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2361 Assault and battery, as set out in § 18.2-57;
- 2362 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2363 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2364 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2365 Robbery, as set out in § 18.2-58;
- 2366 Carjacking, as set out in § 18.2-58.1;
- 2367 Extortion by threat, as set out in § 18.2-59;
- 2368 Threat of death or bodily injury, as set out in § 18.2-60;
- 2369 Any felony stalking offense, as set out in § 18.2-60.3;
- 2370 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2371 Rape, as set out in § 18.2-61;
- 2372 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2373 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2374 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2375 set out in § 18.2-64.2;
- 2376 Forcible sodomy, as set out in § 18.2-67.1;
- 2377 Object sexual penetration, as set out in § 18.2-67.2;
- 2378 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2379 Sexual battery, as set out in § 18.2-67.4;
- 2380 Infected sexual battery, as set out in § 18.2-67.4.1;
- 2381 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 2382 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2383 battery, as set out in § 18.2-67.5;
- 2384 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or
- 2385 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 2386 2. Crimes against property, or an equivalent offense in another state:
- 2387 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2388 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2389 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2390 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2391 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2392 set out in § 18.2-82;
- 2393 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2394 such buildings, etc., as set out in § 18.2-83;
- 2395 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2396 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in

2397 § 18.2-85;
 2398 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 2399 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 2400 *§ 18.2-87;*
 2401 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 2402 *§ 18.2-87.1;*
 2403 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2404 *Burglary, as set out in § 18.2-89;*
 2405 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 2406 *§ 18.2-90;*
 2407 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 2408 *set out in § 18.2-91;*
 2409 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
 2410 *§ 18.2-92;*
 2411 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 2412 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 2413 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 2414 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 2415 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2416 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 2417 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 2418 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 2419 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 2420 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2421 *distribute methamphetamine, as set out in § 18.2-248.03;*
 2422 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 2423 *in § 18.2-248.1;*
 2424 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2425 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
 2426 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2427 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 2428 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 2429 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2430 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 2431 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 2432 *Conspiracy, as set out in § 18.2-256; or*
 2433 *Attempts, as set out in § 18.2-257;*
 2434 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 2435 *in § 18.2-258;*
 2436 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 2437 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 2438 *as set out in § 18.2-258.1; or*
 2439 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 2440 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 2441 *Possession of controlled substances, as set out in § 18.2-250;*
 2442 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 2443 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2444 *Conspiracy, as set out in § 18.2-256; or*
 2445 *Attempts, as set out in § 18.2-257;*
 2446 *5. Crimes involving health or safety, or an equivalent offense in another state:*
 2447 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2448 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2449 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*
 2450 *Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A*
 2451 *of § 18.2-300; or*
 2452 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2453 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
 2454 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2455 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2456 *Incest, as set out in § 18.2-366;*
 2457 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2458 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*

2459 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2460 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2461 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2462 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2463 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2464 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2465 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2466 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 2467 *§ 18.2-374.1.1;*
 2468 *Use of communications systems to facilitate certain crimes involving children, as set out in*
 2469 *§ 18.2-374.3;*
 2470 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 2471 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 2472 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 2473 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 2474 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 2475 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2476 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
 2477 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*
 2478 *Escape from jail, as set out in § 18.2-477;*
 2479 *8. Any felony offense by prisoners as set out in § 53.1-203; or*
 2480 *9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have*
 2481 *elapsed between the date of conviction and the date of application.*
 2482 *Such employees shall undergo background checks pursuant to subsection D.E. In the case of child*
 2483 *welfare agencies, the provisions of this section shall apply to employees who are involved in the*
 2484 *day-to-day operations of such agency or who are alone with, in control of, or supervising one or more*
 2485 *children.*
 2486 *B.C A licensed assisted living facility or adult day care center may hire an applicant convicted of*
 2487 *one misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the*
 2488 *conviction.*
 2489 *C.D. Notwithstanding the provisions of subsection A, a child day center may hire for compensated*
 2490 *employment persons who have been convicted of not more than one misdemeanor offense under*
 2491 *§ 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense*
 2492 *while employed in a child day center or the object of the offense was a minor.*
 2493 *D.E. Background checks pursuant to this section require:*
 2494 *1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the*
 2495 *subject of any pending criminal charges within or outside the Commonwealth and, in the case of child*
 2496 *welfare agencies, whether or not the person has been the subject of a founded complaint of child abuse*
 2497 *or neglect within or outside the Commonwealth;*
 2498 *2. A criminal history record check through the Central Criminal Records Exchange pursuant to*
 2499 *§ 19.2-389; and*
 2500 *3. In the case of child welfare agencies, a search of the central registry maintained pursuant to*
 2501 *§ 63.2-1515 for any founded complaint of child abuse and neglect.*
 2502 *E.F. Any person desiring to work as a compensated employee at a licensed assisted living facility,*
 2503 *licensed adult day care center, a licensed or registered child welfare agency, or a family day home*
 2504 *approved by a family day system shall provide the hiring or approving facility, center or agency with a*
 2505 *sworn statement or affirmation pursuant to subdivision D.E 1. Any person making a materially false*
 2506 *statement regarding the sworn statement or affirmation provided pursuant to subdivision D.E 1 shall be*
 2507 *guilty of a Class 1 misdemeanor.*
 2508 *F.G. A licensed assisted living facility, licensed adult day care center, a licensed or registered child*
 2509 *welfare agency, or a family day home approved by a family day system shall obtain for any*
 2510 *compensated employees within 30 days of employment (i) an original criminal record clearance with*
 2511 *respect to convictions for offensescrimes specified in § 63.2-1719subsection A or B or an original*
 2512 *criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed or*
 2513 *registered child welfare agencies or family day homes approved by family day systems, a copy of the*
 2514 *information from the central registry. If an applicant is denied employment because of information from*
 2515 *the central registry or convictions appearing on his criminal history record, the assisted living facility,*
 2516 *adult day care center or child welfare agency shall provide a copy of the information obtained from the*
 2517 *central registry or the Central Criminal Records Exchange or both to the applicant.*
 2518 *G.H. No volunteer who has an offense as defined in § 63.2-1719 is the subject of a founded*
 2519 *complaint of child abuse or neglect within or outside the Commonwealth or has a crime specified in*

subsection B 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 DE 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~~*crimes* specified in ~~§ 63.2-1719~~subsection B 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 DE 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 pursuant to this section.

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

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

~~L.~~ 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.

§ 63.2-1721. Background check upon application for licensure or registration as child welfare agency; background check of family day homes approved by family day systems; penalty.

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

B. 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 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 or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The character and reputation investigation pursuant to § 63.2-1702 shall include background checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, registration or approval. The applicant shall provide an original criminal record clearance with respect to ~~offenses~~*crimes* specified in ~~§ 63.2-1719~~this subsection 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 B 1 shall be

2582 guilty of a Class 1 misdemeanor.

2583 *D. If The Commissioner shall not issue a license or registration as a child welfare agency to and a*
 2584 *family day system shall not approve as a family day home an applicant if any person specified in*
 2585 *subsection A required to have a background check is the subject of a founded complaint of child abuse*
 2586 *or neglect within or outside of the Commonwealth or has any offense as defined in § 63.2-1719 been*
 2587 *convicted of any of the following, and such person has not been granted a waiver by the Commissioner*
 2588 *pursuant to § 63.2-1723 or is not subject to an exception in subsections E, F, or G (i) the Commissioner*
 2589 *shall not issue a license or registration to a child welfare agency; (ii) the:*

2590 *1. Crimes against the person, or an equivalent offense in another state:*

2591 *Capital murder, as set out in § 18.2-31;*

2592 *First or second degree murder, as set out in § 18.2-32;*

2593 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

2594 *Killing of a fetus, as set out in § 18.2-32.2;*

2595 *Felony homicide, as set out in § 18.2-33;*

2596 *Voluntary manslaughter, as set out in § 18.2-35;*

2597 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

2598 *Malicious wounding by mob, as set out in § 18.2-41;*

2599 *Assault or battery by mob, as set out in § 18.2-42;*

2600 *Abduction, as set out in subsection A or B of § 18.2-47;*

2601 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

2602 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*

2603 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
 2604 *emergency medical service providers, as set out in § 18.2-51.1;*

2605 *Aggravated malicious wounding, as set out in § 18.2-51.2;*

2606 *Reckless endangerment, as set out in § 18.2-51.3;*

2607 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*

2608 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
 2609 *§ 18.2-51.5;*

2610 *Strangulation of another, as set out in § 18.2-51.6;*

2611 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
 2612 *as set out in § 18.2-52;*

2613 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*

2614 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*

2615 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*

2616 *Attempts to poison, as set out in § 18.2-54.1;*

2617 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*

2618 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
 2619 *probationers, or adult parolees, as set out in § 18.2-55;*

2620 *Hazing of youth gang members, as set out in § 18.2-55.1;*

2621 *Hazing, as set out in § 18.2-56;*

2622 *Reckless handling of firearms, as set out in § 18.2-56.1;*

2623 *Allowing access to firearms by children, as set out in § 18.2-56.2;*

2624 *Assault and battery, as set out in § 18.2-57;*

2625 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*

2626 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*

2627 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*

2628 *Robbery, as set out in § 18.2-58;*

2629 *Carjacking, as set out in § 18.2-58.1;*

2630 *Extortion by threat, as set out in § 18.2-59;*

2631 *Threat of death or bodily injury, as set out in § 18.2-60;*

2632 *Any felony stalking offense, as set out in § 18.2-60.3;*

2633 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*

2634 *Rape, as set out in § 18.2-61;*

2635 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*

2636 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*

2637 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
 2638 *set out in § 18.2-64.2;*

2639 *Forcible sodomy, as set out in § 18.2-67.1;*

2640 *Object sexual penetration, as set out in § 18.2-67.2;*

2641 *Aggravated sexual battery, as set out in § 18.2-67.3;*

2642 *Sexual battery, as set out in § 18.2-67.4;*

2643 *Infected sexual battery, as set out in § 18.2-67.4:1;*
 2644 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;*
 2645 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 2646 *battery, as set out in § 18.2-67.5;*
 2647 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1; or*
 2648 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
 2649 *2. Crimes against property, or an equivalent offense in another state:*
 2650 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 2651 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 2652 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 2653 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 2654 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 2655 *set out in § 18.2-82;*
 2656 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 2657 *such buildings, etc., as set out in § 18.2-83;*
 2658 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 2659 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 2660 *§ 18.2-85;*
 2661 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 2662 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 2663 *§ 18.2-87;*
 2664 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 2665 *§ 18.2-87.1;*
 2666 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2667 *Burglary, as set out in § 18.2-89;*
 2668 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 2669 *§ 18.2-90;*
 2670 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 2671 *set out in § 18.2-91;*
 2672 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
 2673 *§ 18.2-92;*
 2674 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 2675 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 2676 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 2677 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 2678 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2679 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 2680 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 2681 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 2682 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 2683 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2684 *distribute methamphetamine, as set out in § 18.2-248.03;*
 2685 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 2686 *in § 18.2-248.1;*
 2687 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2688 *distribute synthetic cannabinoids as set out in § 18.2-248.1:1;*
 2689 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2690 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 2691 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 2692 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2693 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 2694 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 2695 *Conspiracy, as set out in § 18.2-256;*
 2696 *Attempts, as set out in § 18.2-257;*
 2697 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 2698 *in § 18.2-258;*
 2699 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 2700 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 2701 *as set out in § 18.2-258.1; or*
 2702 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 2703 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 2704 *Possession of controlled substances, as set out in § 18.2-250;*

- 2705 Possession of flunitrazepam, as set out in § 18.2-251.2;
 2706 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 2707 Conspiracy, as set out in § 18.2-256; or
 2708 Attempts, as set out in § 18.2-257;
 2709 5. Crimes involving health or safety, or an equivalent offense in another state:
 2710 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 2711 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 2712 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 2713 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 2714 of § 18.2-300; or
 2715 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 2716 6. Crimes involving morals and decency, or an equivalent offense in another state:
 2717 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 2718 Crimes against nature, as set out in § 18.2-361, involving children;
 2719 Incest, as set out in § 18.2-366;
 2720 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 2721 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 2722 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 2723 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 2724 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 2725 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 2726 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 2727 Abuse or neglect of children, as set out in § 18.2-371.1;
 2728 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 2729 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 2730 § 18.2-374.1.1;
 2731 Use of communications systems to facilitate certain crimes involving children, as set out in
 2732 § 18.2-374.3;
 2733 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 2734 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 2735 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 2736 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 2737 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 2738 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 2739 7. Crimes against the administration of justice, or an equivalent offense in another state:
 2740 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or
 2741 Escape from jail, as set out in § 18.2-477;
 2742 8. Any felony offense by prisoners as set out in § 53.1-203; or
 2743 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
 2744 elapsed between the date of conviction and the date of application.
 2745 E. The Commissioner shall not issue a license to an assisted living facility; (iii) a child-placing
 2746 agency shall not approve an adoptive or foster home; or (iv) a family day system shall not approve a
 2747 family day home if any person specified in subsection A required to have a background check has been
 2748 convicted of any of the following:
 2749 1. Crimes against the person, or an equivalent offense in another state:
 2750 Capital murder, as set out in § 18.2-31;
 2751 First or second degree murder, as set out in § 18.2-32;
 2752 Murder of a pregnant woman, as set out in § 18.2-32.1;
 2753 Killing of a fetus, as set out in § 18.2-32.2;
 2754 Felony homicide, as set out in § 18.2-33;
 2755 Voluntary manslaughter, as set out in § 18.2-35;
 2756 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
 2757 Malicious wounding by mob, as set out in § 18.2-41;
 2758 Abduction, as set out in subsection A or B of § 18.2-47;
 2759 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
 2760 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
 2761 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
 2762 emergency medical service providers, as set out in § 18.2-51.1;
 2763 Aggravated malicious wounding, as set out in § 18.2-51.2;
 2764 Reckless endangerment, as set out in § 18.2-51.3;
 2765 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;

- 2766 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 2767 § 18.2-51.5;
- 2768 Strangulation of another as set out in § 18.2-51.6;
- 2769 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 2770 as set out in § 18.2-52;
- 2771 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 2772 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 2773 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 2774 Attempts to poison, as set out in § 18.2-54.1;
- 2775 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 2776 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 2777 probationers, or adult parolees, as set out in § 18.2-55;
- 2778 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2779 Hazing, as set out in § 18.2-56;
- 2780 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2781 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2782 Assault and battery, as set out in § 18.2-57;
- 2783 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2784 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2785 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2786 Robbery, as set out in § 18.2-58;
- 2787 Carjacking, as set out in § 18.2-58.1;
- 2788 Extortion by threat, as set out in § 18.2-59;
- 2789 Threat of death or bodily injury, as set out in § 18.2-60;
- 2790 Any felony stalking offense, as set out in § 18.2-60.3;
- 2791 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2792 Rape, as set out in § 18.2-61;
- 2793 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2794 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2795 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2796 set out in § 18.2-64.2;
- 2797 Forcible sodomy, as set out in § 18.2-67.1;
- 2798 Object sexual penetration, as set out in § 18.2-67.2;
- 2799 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2800 Sexual battery, as set out in § 18.2-67.4;
- 2801 Infected sexual battery, as set out in § 18.2-67.4.1;
- 2802 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 2803 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2804 battery, as set out in § 18.2-67.5;
- 2805 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or
- 2806 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 2807 2. Crimes against property, or an equivalent offense in another state:
- 2808 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2809 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2810 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2811 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2812 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2813 set out in § 18.2-82;
- 2814 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2815 such buildings, etc., as set out in § 18.2-83;
- 2816 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2817 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 2818 § 18.2-85;
- 2819 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 2820 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
- 2821 § 18.2-87;
- 2822 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in
- 2823 § 18.2-87.1;
- 2824 Carelessly damaging property by fire, as set out in § 18.2-88;
- 2825 3. Crimes involving health or safety, or an equivalent offense in another state:
- 2826 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
- 2827 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;
 4. 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;
 5. 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
 6. Any felony offense by prisoners as set out in § 53.1-203.
 D.F. 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.G. 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.H. 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.I. 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 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements contained in § 63.2-1726.
§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain background check.
 A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare agency, an assisted living facility or adult day care center, a child-placing agency may revoke the approval of a foster home, and a family day system may revoke the approval of a family day home if the assisted living facility, adult day care center, child welfare agency, foster home or approved family day home has knowledge that a person specified in §§ 63.2-1720 and 63.2-1721 required to have a background check has an offense as defined in § 63.2-1719 been convicted of a crime identified as that section, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720 and subsection E of § 63.2-1721, and the facility, center or agency refuses to separate such person from employment or service.
 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for denial or revocation of a license, registration or approval. No violation shall occur if the assisted living

2889 facility, adult day care center or child welfare agency has applied for the background check timely and
 2890 it has not been obtained due to administrative delay. The provisions of this section shall be enforced by
 2891 the Department.

2892 **§ 63.2-1723. Child welfare agencies; criminal conviction and waiver.**

2893 A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is
 2894 disqualified because of a criminal conviction or a criminal conviction in the background check of any
 2895 other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720,
 2896 63.2-1721 and 63.2-1724, may apply in writing for a waiver from the Commissioner. The Commissioner
 2897 may grant a waiver if the Commissioner determines that (i) the person is of good moral character and
 2898 reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the
 2899 person's care. The Commissioner shall not grant a waiver to any person who has been convicted of a
 2900 ~~barrier crime as defined in § 63.2-1719~~ any of the following:

2901 1. Crimes against the person, or an equivalent offense in another state:

2902 Capital murder, as set out in § 18.2-31;

2903 First or second degree murder, as set out in § 18.2-32;

2904 Murder of a pregnant woman, as set out in § 18.2-32.1;

2905 Killing of a fetus, as set out in § 18.2-32.2;

2906 Felony homicide, as set out in § 18.2-33;

2907 Voluntary manslaughter, as set out in § 18.2-35;

2908 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;

2909 Malicious wounding by mob, as set out in § 18.2-41;

2910 Assault or battery by mob, as set out in § 18.2-42;

2911 Abduction, as set out in subsection A or B of § 18.2-47;

2912 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;

2913 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;

2914 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
 2915 emergency medical service providers, as set out in § 18.2-51.1;

2916 Aggravated malicious wounding, as set out in § 18.2-51.2;

2917 Reckless endangerment, as set out in § 18.2-51.3;

2918 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;

2919 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
 2920 § 18.2-51.5;

2921 Strangulation of another, as set out in § 18.2-51.6;

2922 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
 2923 as set out in § 18.2-52;

2924 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;

2925 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;

2926 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;

2927 Attempts to poison, as set out in § 18.2-54.1;

2928 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;

2929 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
 2930 probationers, or adult parolees, as set out in § 18.2-55;

2931 Hazing of youth gang members, as set out in § 18.2-55.1;

2932 Hazing, as set out in § 18.2-56;

2933 Reckless handling of firearms, as set out in § 18.2-56.1;

2934 Allowing access to firearms by children, as set out in § 18.2-56.2;

2935 Assault and battery, as set out in § 18.2-57;

2936 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;

2937 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;

2938 Assault and battery against a family or household member, as set out in § 18.2-57.2;

2939 Robbery, as set out in § 18.2-58;

2940 Carjacking, as set out in § 18.2-58.1;

2941 Extortion by threat, as set out in § 18.2-59;

2942 Threat of death or bodily injury, as set out in § 18.2-60;

2943 Any felony stalking offense, as set out in § 18.2-60.3;

2944 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;

2945 Rape, as set out in § 18.2-61;

2946 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;

2947 Carnal knowledge of certain minors, as set out in § 18.2-64.1;

2948 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
 2949 set out in § 18.2-64.2;

2950 Forcible sodomy, as set out in § 18.2-67.1;

- 2951 *Object sexual penetration, as set out in § 18.2-67.2;*
- 2952 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 2953 *Sexual battery, as set out in § 18.2-67.4;*
- 2954 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 2955 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 2956 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 2957 *battery, as set out in § 18.2-67.5;*
- 2958 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
- 2959 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 2960 *2. Crimes against property, or an equivalent offense in another state:*
- 2961 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 2962 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 2963 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 2964 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 2965 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 2966 *set out in § 18.2-82;*
- 2967 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 2968 *such buildings, etc., as set out in § 18.2-83;*
- 2969 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 2970 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 2971 *§ 18.2-85;*
- 2972 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 2973 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 2974 *§ 18.2-87;*
- 2975 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
- 2976 *§ 18.2-87.1;*
- 2977 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 2978 *Burglary, as set out in § 18.2-89;*
- 2979 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 2980 *§ 18.2-90;*
- 2981 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 2982 *set out in § 18.2-91;*
- 2983 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
- 2984 *§ 18.2-92;*
- 2985 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 2986 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 2987 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 2988 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 2989 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 2990 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 2991 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 2992 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 2993 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 2994 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 2995 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 2996 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
- 2997 *in § 18.2-248.1;*
- 2998 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 2999 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
- 3000 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3001 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
- 3002 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
- 3003 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
- 3004 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
- 3005 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
- 3006 *Conspiracy, as set out in § 18.2-256;*
- 3007 *Attempts, as set out in § 18.2-257;*
- 3008 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
- 3009 *in § 18.2-258;*
- 3010 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
- 3011 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*

3012 as set out in § 18.2-258.1; or
 3013 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 3014 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:
 3015 Possession of controlled substances, as set out in § 18.2-250;
 3016 Possession of flunitrazepam, as set out in § 18.2-251.2;
 3017 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 3018 Conspiracy, as set out in § 18.2-256; or
 3019 Attempts, as set out in § 18.2-257;
 3020 5. Crimes involving health or safety, or an equivalent offense in another state:
 3021 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 3022 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 3023 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 3024 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 3025 of § 18.2-300; or
 3026 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 3027 6. Crimes involving morals and decency, or an equivalent offense in another state:
 3028 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 3029 Crimes against nature, as set out in § 18.2-361, involving children;
 3030 Incest, as set out in § 18.2-366;
 3031 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 3032 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 3033 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 3034 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 3035 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 3036 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 3037 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3038 Abuse or neglect of children, as set out in § 18.2-371.1;
 3039 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 3040 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 3041 § 18.2-374.1.1;
 3042 Use of communications systems to facilitate certain crimes involving children, as set out in
 3043 § 18.2-374.3;
 3044 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 3045 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 3046 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 3047 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 3048 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 3049 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3050 7. Crimes against the administration of justice, or an equivalent offense in another state:
 3051 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or
 3052 Escape from jail, as set out in § 18.2-477; or
 3053 8. Any felony offense by prisoners as set out in § 53.1-203.
 3054 However, the Commissioner may grant a waiver to a family day home regulated by the Department
 3055 if any other adult living in the home of the applicant or provider has been convicted of not more than
 3056 one misdemeanor offense under § 18.2-57 or § 18.2-57.2, provided (a) five years have elapsed following
 3057 the conviction and (b) the Department has conducted a home study that includes, but is not limited to,
 3058 (1) an assessment of the safety of children placed in the home and (2) a determination that the offender
 3059 is now a person of good moral character and reputation. The waiver shall not be granted if the adult
 3060 living in the home is an assistant or substitute provider or if such adult has been convicted of a
 3061 misdemeanor offense under both §§ 18.2-57 and 18.2-57.2. Any waiver granted under this section shall
 3062 be available for inspection by the public. The child welfare agency shall notify in writing every parent
 3063 and guardian of the children in its care of any waiver granted for its operators, employees or volunteers.
 3064 B. The Board shall adopt regulations to implement the provisions of this section.
 3065 **§ 63.2-1724. Records check by unlicensed child day center; penalty.**
 3066 Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a
 3067 prospective employee or volunteer or any other person who is expected to be alone with one or more
 3068 children enrolled in the child day center to obtain within 30 days of employment or commencement of
 3069 volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded
 3070 complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of
 3071 § 19.2-389 and shall refuse employment or service to any person who is the subject of a founded
 3072 complaint of child abuse or neglect within or outside of the Commonwealth or has any offense defined
 3073 in § 63.2-1719 been convicted of any of the following:

- 3074 1. Crimes against the person, or an equivalent offense in another state:
- 3075 Capital murder, as set out in § 18.2-31;
- 3076 First or second degree murder, as set out in § 18.2-32;
- 3077 Murder of a pregnant woman, as set out in § 18.2-32.1;
- 3078 Killing of a fetus, as set out in § 18.2-32.2;
- 3079 Felony homicide, as set out in § 18.2-33;
- 3080 Voluntary manslaughter, as set out in § 18.2-35;
- 3081 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
- 3082 Malicious wounding by mob, as set out in § 18.2-41;
- 3083 Assault or battery by mob, as set out in § 18.2-42;
- 3084 Abduction, as set out in subsection A or B of § 18.2-47;
- 3085 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
- 3086 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 3087 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 3088 emergency medical service providers, as set out in § 18.2-51.1;
- 3089 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 3090 Reckless endangerment, as set out in § 18.2-51.3;
- 3091 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 3092 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 3093 § 18.2-51.5;
- 3094 Strangulation of another as set forth in § 18.2-51.6;
- 3095 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 3096 as set out in § 18.2-52;
- 3097 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 3098 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 3099 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 3100 Attempts to poison, as set out in § 18.2-54.1;
- 3101 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 3102 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 3103 probationers, or adult parolees, as set out in § 18.2-55;
- 3104 Hazing of youth gang members, as set out in § 18.2-55.1;
- 3105 Hazing, as set out in § 18.2-56;
- 3106 Reckless handling of firearms, as set out in § 18.2-56.1;
- 3107 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 3108 Assault and battery, as set out in § 18.2-57;
- 3109 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 3110 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 3111 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 3112 Robbery, as set out in § 18.2-58;
- 3113 Carjacking, as set out in § 18.2-58.1;
- 3114 Extortion by threat, as set out in § 18.2-59;
- 3115 Threat of death or bodily injury, as set out in § 18.2-60;
- 3116 Any felony stalking offense, as set out in § 18.2-60.3;
- 3117 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 3118 Rape, as set out in § 18.2-61;
- 3119 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 3120 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 3121 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 3122 set out in § 18.2-64.2;
- 3123 Forcible sodomy, as set out in § 18.2-67.1;
- 3124 Object sexual penetration, as set out in § 18.2-67.2;
- 3125 Aggravated sexual battery, as set out in § 18.2-67.3;
- 3126 Sexual battery, as set out in § 18.2-67.4;
- 3127 Infected sexual battery, as set out in § 18.2-67.4.1;
- 3128 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 3129 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 3130 battery, as set out in § 18.2-67.5;
- 3131 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or
- 3132 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 3133 2. Crimes against property, or an equivalent offense in another state:
- 3134 Burning or destroying dwelling house, etc., as set out in § 18.2-77;

- 3135 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
3136 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
3137 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
3138 *Burning building or structure while in such building or structure with intent to commit a felony, as*
3139 *set out in § 18.2-82;*
3140 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
3141 *such buildings, etc., as set out in § 18.2-83;*
3142 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
3143 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
3144 *§ 18.2-85;*
3145 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
3146 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
3147 *§ 18.2-87;*
3148 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
3149 *§ 18.2-87.1;*
3150 *Carelessly damaging property by fire, as set out in § 18.2-88;*
3151 *Burglary, as set out in § 18.2-89;*
3152 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
3153 *§ 18.2-90;*
3154 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
3155 *set out in § 18.2-91;*
3156 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
3157 *§ 18.2-92;*
3158 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
3159 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
3160 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
3161 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
3162 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
3163 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
3164 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
3165 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
3166 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
3167 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
3168 *distribute methamphetamine, as set out in § 18.2-248.03;*
3169 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
3170 *in § 18.2-248.1;*
3171 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
3172 *distribute synthetic cannabinoids as set out in § 18.2-248.1.1;*
3173 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
3174 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
3175 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
3176 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
3177 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
3178 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
3179 *Conspiracy, as set out in § 18.2-256;*
3180 *Attempts, as set out in § 18.2-257;*
3181 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
3182 *in § 18.2-258;*
3183 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
3184 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
3185 *as set out in § 18.2-258.1; or*
3186 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
3187 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
3188 *Possession of controlled substances, as set out in § 18.2-250;*
3189 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
3190 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
3191 *Conspiracy, as set out in § 18.2-256; or*
3192 *Attempts, as set out in § 18.2-257;*
3193 *5. Crimes involving health or safety, or an equivalent offense in another state:*
3194 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
3195 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
3196 *Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;*

3197 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 3198 of § 18.2-300; or
 3199 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 3200 6. Crimes involving morals and decency, or an equivalent offense in another state:
 3201 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 3202 Crimes against nature, as set out in § 18.2-361, involving children;
 3203 Incest, as set out in § 18.2-366;
 3204 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 3205 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 3206 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 3207 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 3208 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 3209 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 3210 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3211 Abuse or neglect of children, as set out in § 18.2-371.1;
 3212 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 3213 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 3214 § 18.2-374.1.1;
 3215 Use of communications systems to facilitate certain crimes involving children, as set out in
 3216 § 18.2-374.3;
 3217 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 3218 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 3219 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 3220 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 3221 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 3222 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3223 7. Crimes against the administration of justice, or an equivalent offense in another state:
 3224 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or
 3225 Escape from jail, as set out in § 18.2-477;
 3226 8. Any felony offense by prisoners as set out in § 53.1-203; or
 3227 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
 3228 elapsed between the date of conviction and the date of application.
 3229 Such center shall also require a prospective employee or volunteer or any other person who is
 3230 expected to be alone with one or more children in the child day center to provide a sworn statement or
 3231 affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint
 3232 of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for
 3233 any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The
 3234 foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own
 3235 child. ~~For purposes of this section, convictions shall include prior adult convictions and juvenile~~
 3236 ~~convictions or adjudications of delinquency based on a crime that would have been a felony if~~
 3237 ~~committed by an adult within or outside the Commonwealth.~~ Any person making a materially false
 3238 statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied
 3239 employment or service because of information from the central registry or convictions appearing on his
 3240 criminal history record, the child day center shall provide a copy of the information obtained from the
 3241 central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of
 3242 the information provided to the facility is prohibited.
 3243 The provisions of this section referring to volunteers shall apply only to volunteers who will be alone
 3244 with any child in the performance of their duties and shall not apply to a parent-volunteer of a child
 3245 attending the child day center whether or not such parent-volunteer will be alone with any child in the
 3246 performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children
 3247 which includes the parent-volunteer's own child, in a program which operates no more than four hours
 3248 per day, where the parent-volunteer works under the direct supervision of a person who has received a
 3249 clearance pursuant to this section.
 3250 **§ 63.2-1725. Records checks of child day centers or family day homes receiving federal, state or**
 3251 **local child care funds; penalty.**
 3252 Whenever any child day center or family day home that has not met the requirements of
 3253 §§ 63.2-1720, 63.2-1721, and 63.2-1724 applies to enter into a contract with the Department or a local
 3254 department to provide child care services to clients of the Department or local department, the
 3255 Department or local department shall require a criminal records check pursuant to subdivision A 43 of
 3256 § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child
 3257 abuse or neglect investigation, of the applicant; any employee; prospective employee; volunteers; agents

involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a family day home. The applicant shall provide the Department or local department with copies of these records checks. The child day center or family day home shall not be permitted to enter into a contract with the Department or a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home *is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth or has any offense as defined in § 63.2-1719 been convicted of any of the following:*

- 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;*
- Strangulation of another as set forth in § 18.2-51.6;*
- 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;*

- 3320 *Infected sexual battery, as set out in § 18.2-67.4:1;*
- 3321 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;*
- 3322 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 3323 *battery, as set out in § 18.2-67.5;*
- 3324 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1; or*
- 3325 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
- 3326 *2. Crimes against property, or an equivalent offense in another state:*
- 3327 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 3328 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 3329 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 3330 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 3331 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 3332 *set out in § 18.2-82;*
- 3333 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 3334 *such buildings, etc., as set out in § 18.2-83;*
- 3335 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 3336 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 3337 *§ 18.2-85;*
- 3338 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 3339 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 3340 *§ 18.2-87;*
- 3341 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
- 3342 *§ 18.2-87.1;*
- 3343 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 3344 *Burglary, as set out in § 18.2-89;*
- 3345 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 3346 *§ 18.2-90;*
- 3347 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 3348 *set out in § 18.2-91;*
- 3349 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in*
- 3350 *§ 18.2-92;*
- 3351 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 3352 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 3353 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 3354 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 3355 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3356 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 3357 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 3358 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 3359 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 3360 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3361 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 3362 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
- 3363 *in § 18.2-248.1;*
- 3364 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3365 *distribute synthetic cannabinoids as set out in § 18.2-248.1:1;*
- 3366 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3367 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
- 3368 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
- 3369 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
- 3370 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
- 3371 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
- 3372 *Conspiracy, as set out in § 18.2-256;*
- 3373 *Attempts, as set out in § 18.2-257;*
- 3374 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
- 3375 *in § 18.2-258;*
- 3376 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
- 3377 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
- 3378 *as set out in § 18.2-258.1; or*
- 3379 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
- 3380 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*

3381 Possession of controlled substances, as set out in § 18.2-250;
 3382 Possession of flunitrazepam, as set out in § 18.2-251.2;
 3383 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 3384 Conspiracy, as set out in § 18.2-256; or
 3385 Attempts, as set out in § 18.2-257;
 3386 5. Crimes involving health or safety, or an equivalent offense in another state:
 3387 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 3388 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 3389 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 3390 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 3391 of § 18.2-300; or
 3392 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 3393 6. Crimes involving morals and decency, or an equivalent offense in another state:
 3394 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 3395 Crimes against nature, as set out in § 18.2-361, involving children;
 3396 Incest, as set out in § 18.2-366;
 3397 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 3398 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 3399 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 3400 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 3401 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 3402 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 3403 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3404 Abuse or neglect of children, as set out in § 18.2-371.1;
 3405 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 3406 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 3407 § 18.2-374.1.1;
 3408 Use of communications systems to facilitate certain crimes involving children, as set out in
 3409 § 18.2-374.3;
 3410 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 3411 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 3412 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 3413 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 3414 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 3415 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3416 7. Crimes against the administration of justice, or an equivalent offense in another state:
 3417 Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or
 3418 Escape from jail, as set out in § 18.2-477;
 3419 8. Any felony offense by prisoners as set out in § 53.1-203; or
 3420 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
 3421 elapsed between the date of conviction and the date of application.
 3422 The child day center or family day home shall also require the above individuals to provide a sworn
 3423 statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded
 3424 case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal
 3425 charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person
 3426 making a materially false statement regarding any such offense shall be guilty of a Class 1
 3427 misdemeanor. If a person is denied employment or work because of information from the central
 3428 registry or convictions appearing on his criminal history record, the child day center or family day
 3429 program shall provide a copy of such information obtained from the central registry or Central Criminal
 3430 Records Exchange or both to the person. Further dissemination of the information provided to the
 3431 facility, beyond dissemination to the Department, agents of the Department, or the local department, is
 3432 prohibited.
 3433 **§ 63.2-1726. Background check required; children's residential facilities.**
 3434 A. As a condition of employment, volunteering, or providing services on a regular basis, every
 3435 children's residential facility that is regulated or operated by the Departments of Social Services,
 3436 Education, Military Affairs, or Behavioral Health and Developmental Services shall require any
 3437 individual who (i) accepts a position of employment at such a facility who was not employed by that
 3438 facility prior to July 1, 2007, (ii) volunteers for such a facility on a regular basis and will be alone with
 3439 a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1,
 3440 2007, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and
 3441 will be alone with a juvenile in the performance of his duties who did not provide such services prior to
 3442 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; 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 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 (§ 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;

Assault and 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

3504 *emergency medical service providers, as set out in § 18.2-51.1;*
 3505 *Aggravated malicious wounding, as set out in § 18.2-51.2;*
 3506 *Reckless endangerment, as set out in § 18.2-51.3;*
 3507 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*
 3508 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
 3509 *§ 18.2-51.5;*
 3510 *Strangulation of another, as set out in § 18.2-51.6;*
 3511 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
 3512 *as set out in § 18.2-52;*
 3513 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*
 3514 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*
 3515 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
 3516 *Attempts to poison, as set out in § 18.2-54.1;*
 3517 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*
 3518 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
 3519 *probationers, or adult parolees, as set out in § 18.2-55;*
 3520 *Hazing of youth gang members, as set out in § 18.2-55.1;*
 3521 *Hazing, as set out in § 18.2-56;*
 3522 *Reckless handling of firearms, as set out in § 18.2-56.1;*
 3523 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
 3524 *Assault and battery, as set out in § 18.2-57;*
 3525 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*
 3526 *Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;*
 3527 *Assault and battery against a family or household member, as set out in § 18.2-57.2;*
 3528 *Robbery, as set out in § 18.2-58;*
 3529 *Carjacking, as set out in § 18.2-58.1;*
 3530 *Extortion by threat, as set out in § 18.2-59;*
 3531 *Threat of death or bodily injury, as set out in § 18.2-60;*
 3532 *Any felony stalking offense, as set out in § 18.2-60.3;*
 3533 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
 3534 *Rape, as set out in § 18.2-61;*
 3535 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
 3536 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
 3537 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
 3538 *set out in § 18.2-64.2;*
 3539 *Forcible sodomy, as set out in § 18.2-67.1;*
 3540 *Object sexual penetration, as set out in § 18.2-67.2;*
 3541 *Aggravated sexual battery, as set out in § 18.2-67.3;*
 3542 *Sexual battery, as set out in § 18.2-67.4;*
 3543 *Infected sexual battery, as set out in § 18.2-67.4.1;*
 3544 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
 3545 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 3546 *battery, as set out in § 18.2-67.5;*
 3547 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
 3548 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
 3549 *2. Crimes against property, or an equivalent offense in another state:*
 3550 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 3551 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 3552 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 3553 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 3554 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 3555 *set out in § 18.2-82;*
 3556 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 3557 *such buildings, etc., as set out in § 18.2-83;*
 3558 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 3559 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 3560 *§ 18.2-85;*
 3561 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 3562 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 3563 *§ 18.2-87;*
 3564 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in*
 3565 *§ 18.2-87.1;*

3566 Carelessly damaging property by fire, as set out in § 18.2-88;
 3567 Burglary, as set out in § 18.2-89;
 3568 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
 3569 § 18.2-90;
 3570 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
 3571 set out in § 18.2-91;
 3572 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in
 3573 § 18.2-92;
 3574 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
 3575 Possession of burglarious tools, etc., as set out in § 18.2-94;
 3576 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
 3577 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state;
 3578 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 3579 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
 3580 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
 3581 Allowing a minor or incapacitated person to be present during manufacture or attempted
 3582 manufacture of methamphetamine, as set out in § 18.2-248.02;
 3583 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 3584 distribute methamphetamine, as set out in § 18.2-248.03;
 3585 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out
 3586 in § 18.2-248.1;
 3587 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 3588 distribute synthetic cannabinoids as set out in § 18.2-248.1:1;
 3589 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 3590 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;
 3591 Distribution of flunitrazepam, as set out in § 18.2-251.2;
 3592 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 3593 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
 3594 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
 3595 Conspiracy, as set out in § 18.2-256;
 3596 Attempts, as set out in § 18.2-257;
 3597 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
 3598 in § 18.2-258;
 3599 Maintaining a fortified drug house, as set out in § 18.2-258.02;
 3600 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
 3601 as set out in § 18.2-258.1; or
 3602 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 3603 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if
 3604 less than five years have elapsed between the date of conviction and the date of application for
 3605 employment or if the applicant continues to be on probation or parole or has failed to pay required
 3606 court costs:
 3607 Possession of controlled substances, as set out in § 18.2-250;
 3608 Possession of flunitrazepam, as set out in § 18.2-251.2;
 3609 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 3610 Conspiracy, as set out in § 18.2-256; or
 3611 Attempts, as set out in § 18.2-257;
 3612 5. Crimes involving health or safety, or an equivalent offense in another state:
 3613 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 3614 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 3615 Possession or use of a machine gun for aggressive purpose, as set out in § 18.2-290;
 3616 Possession or use of a "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A
 3617 of § 18.2-300; or
 3618 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 3619 6. Crimes involving morals and decency, or an equivalent offense in another state:
 3620 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 3621 Crimes against nature, as set out in § 18.2-361, involving children;
 3622 Incest, as set out in § 18.2-366;
 3623 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 3624 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 3625 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 3626 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts

3627 *result in a criminal homicide, as set out in subsection C of §9.1-902, such that the person is required to*
3628 *register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
3629 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*

3630 *Abuse or neglect of children, as set out in § 18.2-371.1;*

3631 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*

3632 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
3633 *§ 18.2-374.1:1;*

3634 *Use of communications systems to facilitate certain crimes involving children, as set out in*
3635 *§ 18.2-374.3; or*

3636 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
3637 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*

3638 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
3639 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
3640 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
3641 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*

3642 *7. Crimes against the administration of justice, or an equivalent offense in another state:*

3643 *Delivery of drugs firearms, explosives, etc., to prisoners, as set out in § 18.2-474.1; or*

3644 *Escape from jail, as set out in § 18.2-477; or*

3645 *8. Any felony offense by prisoners as set out in § 53.1-203.*

3646 The provisions of this section also shall apply to residential programs established pursuant to
3647 § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that
3648 alleges the juvenile is delinquent or in need of services or supervision, and to local secure detention
3649 facilities provided, however, that the provisions of this section related to local secure detention facilities
3650 shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at
3651 such local secure detention facility, volunteers at such local secure detention facility on a regular basis
3652 and will be alone with a juvenile in the performance of his duties, or provides contractual services
3653 directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a
3654 juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local
3655 agency that regulates or operates the local secure detention facility shall process the criminal history
3656 record information regarding such applicant in accordance with this subsection and subsection B.

3657 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
3658 compensated employment or for volunteer or contractual service purposes persons who have been
3659 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have
3660 elapsed following the conviction, unless the person committed such offense in the scope of his
3661 employment, volunteer, or contractual services.

3662 If the applicant is denied employment or the opportunity to volunteer or provide services at a
3663 children's residential facility because of information appearing on his criminal history record, and the
3664 applicant disputes the information upon which the denial was based, upon written request of the
3665 applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history
3666 record from the Federal Bureau of Investigation. If the applicant has been permitted to assume duties
3667 that do not involve contact with children pending receipt of the report, the children's residential facility
3668 is not precluded from suspending the applicant from his position pending a final determination of the
3669 applicant's eligibility to have responsibility for the safety and well-being of children. The information
3670 provided to the children's residential facility shall not be disseminated except as provided in this section.

3671 C. Those individuals listed in clauses (i), (ii) and (iii) of subsection A also shall authorize the
3672 children's residential facility to obtain a copy of information from the central registry maintained
3673 pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The applicant
3674 shall provide the children's residential facility with a written statement or affirmation disclosing whether
3675 he has ever been the subject of a founded case of child abuse or neglect within or outside the
3676 Commonwealth. The children's residential facility shall receive the results of the central registry search
3677 prior to permitting an applicant to work alone with children. Children's residential facilities regulated or
3678 operated by the Departments of Education; Behavioral Health and Developmental Services; Military
3679 Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide
3680 contractual services, persons who have a founded case of child abuse or neglect. Every residential
3681 facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be
3682 authorized to obtain a copy of the information from the central registry.

3683 D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and
3684 Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with
3685 the provisions of this section. Copies of any information received by a children's residential facility
3686 pursuant to this section shall be available to the agency that regulates or operates such facility but shall
3687 not be disseminated further. The cost of obtaining the criminal history record and the central registry
3688 information shall be borne by the employee or volunteer unless the children's residential facility, at its

3689 option, decides to pay the cost.

3690 2. That § 63.2-1719 of the Code of Virginia is repealed.