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SENATE BILL NO. 831

Offered January 14, 2015

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

Patron—Edwards

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

Such local ordinances may require that ~~persons~~ every person who ~~provide~~ provides 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 person has not been convicted of any offense involving the sexual molestation of children; or the physical or sexual abuse or rape of a child or any offense identified in § 63.2-1719, and such 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*

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59 § 18.2-51.5;
60 Strangulation of another, as set out in § 18.2-51.6;
61 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
62 as set out in § 18.2-52;
63 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
64 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
65 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
66 Attempts to poison, as set out in § 18.2-54.1;
67 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
68 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
69 probationers, or adult parolees, as set out in § 18.2-55;
70 Hazing of youth gang members, as set out in § 18.2-55.1;
71 Hazing, as set out in § 18.2-56;
72 Reckless handling of firearms, as set out in § 18.2-56.1;
73 Allowing access to firearms by children, as set out in § 18.2-56.2;
74 Assault and battery, as set out in § 18.2-57;
75 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
76 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
77 Assault and battery against a family or household member, as set out in § 18.2-57.2;
78 Robbery, as set out in § 18.2-58;
79 Carjacking, as set out in § 18.2-58.1;
80 Extortion by threat, as set out in § 18.2-59;
81 Threat of death or bodily injury, as set out in § 18.2-60;
82 Any felony stalking offense, as set out in § 18.2-60.3;
83 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
84 Rape, as set out in § 18.2-61;
85 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
86 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
87 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
88 set out in § 18.2-64.2;
89 Forcible sodomy, as set out in § 18.2-67.1;
90 Object sexual penetration, as set out in § 18.2-67.2;
91 Aggravated sexual battery, as set out in § 18.2-67.3;
92 Sexual battery, as set out in § 18.2-67.4;
93 Infected sexual battery, as set out in § 18.2-67.4.1;
94 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
95 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
96 battery, as set out in § 18.2-67.5;
97 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
98 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 illegal stimulants and steroids, as set out in § 18.2-248.5;*
 140 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 141 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 142 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 143 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 144 *Conspiracy, as set out in § 18.2-256;*
 145 *Attempts, as set out in § 18.2-257;*
 146 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 147 *in § 18.2-258;*
 148 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 149 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 150 *as set out in § 18.2-258.1; or*
 151 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 152 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 153 *Possession of controlled substances, as set out in § 18.2-250;*
 154 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 155 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 156 *Conspiracy, as set out in § 18.2-256; or*
 157 *Attempts, as set out in § 18.2-257;*
 158 *5. Crimes involving health or safety, or an equivalent offense in another state:*
 159 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 160 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 161 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 162 *§ 18.2-300; or*
 163 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 164 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
 165 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 166 *Crimes against nature, as set out in § 18.2-361, involving children;*
 167 *Incest, as set out in § 18.2-366;*
 168 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 169 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 170 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 171 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 172 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 173 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 174 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 175 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 176 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 177 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 178 *§ 18.2-374.1:1;*
 179 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 180 *18.2-374.3;*
 181 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*

182 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
183 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
184 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
185 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
186 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

187 7. Crimes against the administration of justice, or an equivalent offense in another state:
188 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
189 § 18.2-474.1; or

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

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

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

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

200 **§ 19.2-389. Dissemination of criminal history record information.**

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

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

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

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

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

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

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

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

235 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
236 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
237 position of employment whenever, in the interest of public welfare or safety and as authorized in the
238 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
239 with a conviction record would be compatible with the nature of the employment under consideration;

240 8. Public or private agencies when authorized or required by federal or state law or interstate
241 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
242 adult members of that individual's household, with whom the agency is considering placing a child or
243 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 Virginia Lottery for the conduct of investigations as set forth in the Virginia 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 coordinating such records information on behalf of such governing boards or administrators pursuant to

305 a written agreement with the Department of State Police;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

360 38. The State Corporation Commission for the purpose of investigating individuals who are current
361 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
362 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
363 other provision of law, if an application is denied based in whole or in part on information obtained
364 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
365 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
366 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~~ 63.2-1601.1.

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 and the elderly and disabled.

A. For purposes of this section:

428 "Barrier crime" means any offense set forth in § ~~63.2-1719~~ 15.2-914, 22.1-296.3, 63.2-901.1,
429 63.2-1601.1, 63.2-1717, 63.2-1720, 63.2-1721, 63.2-1723, 63.2-1724, 63.2-1725, 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; *or* 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; *or* the elderly
484 or 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

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~~

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;*

- 551 *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;*
 569 *or*
 570 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
 571 *2. Crimes against property, or an equivalent offense in another state:*
 572 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 573 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 574 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 575 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 576 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 577 *set out in § 18.2-82;*
 578 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 579 *such buildings, etc., as set out in § 18.2-83;*
 580 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 581 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 582 *§ 18.2-85;*
 583 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 584 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 585 *§ 18.2-87;*
 586 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 587 *18.2-87.1;*
 588 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 589 *Burglary, as set out in § 18.2-89;*
 590 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 591 *§ 18.2-90;*
 592 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 593 *set out in § 18.2-91;*
 594 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
 595 *18.2-92;*
 596 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 597 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 598 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 599 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 600 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 601 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 602 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 603 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 604 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 605 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 606 *distribute methamphetamine, as set out in § 18.2-248.03;*
 607 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 608 *in § 18.2-248.1;*
 609 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 610 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 611 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 612 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*

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

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;

736 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;
 773 or
 774 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
 775 2. Crimes against property, or an equivalent offense in another state:
 776 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
 777 Burning or destroying meeting house, etc., as set out in § 18.2-79;
 778 Burning or destroying any other building or structure, as set out in § 18.2-80;
 779 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
 780 Burning building or structure while in such building or structure with intent to commit a felony, as
 781 set out in § 18.2-82;
 782 Threats to bomb or damage buildings or means of transportation; false information as to danger to
 783 such buildings, etc., as set out in § 18.2-83;
 784 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
 785 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
 786 § 18.2-85;
 787 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
 788 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
 789 § 18.2-87;
 790 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
 791 18.2-87.1;
 792 Carelessly damaging property by fire, as set out in § 18.2-88;
 793 3. Crimes involving health or safety, or an equivalent offense in another state:
 794 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 795 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 796 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;

797 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
798 § 18.2-300; or
799 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
800 4. Crimes involving morals and decency, or an equivalent offense in another state:
801 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
802 Crimes against nature, as set out in § 18.2-361, involving children;
803 Incest, as set out in § 18.2-366;
804 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
805 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
806 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
807 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
808 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
809 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
810 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
811 Abuse or neglect of children, as set out in § 18.2-371.1;
812 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
813 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
814 § 18.2-374.1.1;
815 Use of communications systems to facilitate certain crimes involving children, as set out in §
816 18.2-374.3;
817 Employing or permitting a minor to assist in an act constituting an offense under Article 5
818 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
819 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
820 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
821 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
822 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
823 5. Crimes against the administration of justice, or an equivalent offense in another state:
824 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
825 § 18.2-474.1;
826 Escape from jail, as set out in § 18.2-477; or
827 6. Any felony offense by prisoners as set out in § 53.1-203.
828 However, a licensed nursing home may hire an applicant who has been convicted of one
829 misdemeanor specified in this section not involving abuse or neglect, if five years have elapsed
830 following the conviction.
831 Any person desiring to work at a licensed nursing home shall provide the hiring facility with a sworn
832 statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether
833 within or without the Commonwealth. Any person making a materially false statement when providing
834 such sworn statement or affirmation regarding any such offense shall be guilty upon conviction of a
835 Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is
836 prohibited other than to a federal or state authority or court as may be required to comply with an
837 express requirement of law for such further dissemination.
838 A nursing home shall, within 30 days of employment, obtain for any compensated employees an
839 original criminal record clearance with respect to convictions for offenses specified in this section or an
840 original criminal history record from the Central Criminal Records Exchange. However, no employee
841 shall be permitted to work in a position that involves direct contact with a patient until an original
842 criminal record clearance or original criminal history record has been received, unless such person works
843 under the direct supervision of another employee for whom a background check has been completed in
844 accordance with the requirements of this section. The provisions of this section shall be enforced by the
845 Commissioner. If an applicant is denied employment because of convictions appearing on his criminal
846 history record, the nursing home shall provide a copy of the information obtained from the Central
847 Criminal Records Exchange to the applicant.
848 The provisions of this section shall not apply to volunteers who work with the permission or under
849 the supervision of a person who has received a clearance pursuant to this section.
850 B. A person who complies in good faith with the provisions of this section shall not be liable for
851 any civil damages for any act or omission in the performance of duties under this section unless the act
852 or omission was the result of gross negligence or willful misconduct.
853 C. A licensed nursing home shall notify and provide to all students a copy of the provisions of this
854 section prior to or upon enrollment in a certified nurse aide program operated by such nursing home.
855 **§ 32.1-162.9:1. Employment for compensation of persons convicted of certain offenses**
856 **prohibited; criminal records check required; drug testing; suspension or revocation of license.**
857 A. A licensed home care organization as defined in § 32.1-162.7 or, any home care organization
858 exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or, any licensed hospice as defined in

§ 32.1-162.1, or any hospice exempt from licensure pursuant to § 32.1-162.2 shall not hire for compensated employment, persons who have been convicted of a felony violation of a protective order as set out in § 18.2-53.2, murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by a mob as set out in § 18.2-41, abduction as set out in subsection A or B of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, a felony violation of a protective order as set out in § 18.2-60.4, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203, or an equivalent offense in another state any of the following:

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;

920 *Robbery, as set out in § 18.2-58;*
 921 *Carjacking, as set out in § 18.2-58.1;*
 922 *Extortion by threat, as set out in § 18.2-59;*
 923 *Threat of death or bodily injury, as set out in § 18.2-60;*
 924 *Any felony stalking offense, as set out in § 18.2-60.3;*
 925 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
 926 *Rape, as set out in § 18.2-61;*
 927 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
 928 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
 929 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
 930 *set out in § 18.2-64.2;*
 931 *Forcible sodomy, as set out in § 18.2-67.1;*
 932 *Object sexual penetration, as set out in § 18.2-67.2;*
 933 *Aggravated sexual battery, as set out in § 18.2-67.3;*
 934 *Sexual battery, as set out in § 18.2-67.4;*
 935 *Infected sexual battery, as set out in § 18.2-67.4.1;*
 936 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
 937 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 938 *battery, as set out in § 18.2-67.5;*
 939 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;*
 940 *or*
 941 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
 942 *2. Crimes against property, or an equivalent offense in another state:*
 943 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 944 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 945 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 946 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 947 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 948 *set out in § 18.2-82;*
 949 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 950 *such buildings, etc., as set out in § 18.2-83;*
 951 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 952 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 953 *§ 18.2-85;*
 954 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 955 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 956 *§ 18.2-87;*
 957 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 958 *18.2-87.1;*
 959 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 960 *3. Crimes involving health or safety, or an equivalent offense in another state:*
 961 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 962 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 963 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 964 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 965 *§ 18.2-300; or*
 966 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 967 *4. Crimes involving morals and decency, or an equivalent offense in another state:*
 968 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 969 *Crimes against nature, as set out in § 18.2-361, involving children;*
 970 *Incest, as set out in § 18.2-366;*
 971 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 972 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 973 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 974 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 975 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 976 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 977 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 978 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 979 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 980 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 981 *§ 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;

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

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

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

6. Any felony offense by prisoners as set out in § 53.1-203.

However, a home care organization or hospice may hire an applicant convicted of one misdemeanor specified in this section not involving abuse or neglect, if five years have elapsed since the conviction.

Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in § 32.1-162.1 shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth. Any person making a materially false statement when providing such sworn statement or affirmation regarding any such offense shall be guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

Such home care organization or hospice shall, within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to convictions for offenses specified in this section or an original criminal history record from the Central Criminal Records Exchange. However, no employee shall be permitted to work in a position that involves direct contact with a patient until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. The provisions of this section shall be enforced by the Commissioner. If an applicant is denied employment because of convictions appearing on his criminal history record, the home care organization or hospice shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

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

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

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

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

§ 37.2-314. Background check required.

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

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been (i) convicted of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter, as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob, as set out in § 18.2-41; abduction, as set out in subsection A or B of

§ 18.2-47; abduction for immoral purposes, as set out in § 18.2-48; assault and bodily wounding, as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery, as set out in § 18.2-58; carjacking, as set out in § 18.2-58.1; extortion by threat, as set out in § 18.2-59; threat, as set out in § 18.2-60; any felony stalking violation, as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault, as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson, as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary, as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting, as set out in § 18.2-286.1; use of a machine gun in a crime of violence, as set out in § 18.2-289; aggressive use of a machine gun, as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence, as set out in subsection A of § 18.2-300; pandering, as set out in § 18.2-355; crimes against nature involving children, as set out in § 18.2-361; taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children, as set out in § 18.2-371.1, including failing to secure medical attention for an injured child, as set out in § 18.2-314; obscenity offenses, as set out in § 18.2-374.1; possession of child pornography, as set out in § 18.2-374.1:1; electronic facilitation of pornography, as set out in § 18.2-374.3; incest, as set out in § 18.2-366; abuse or neglect of incapacitated adults, as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; delivery of drugs to prisoners, as set out in § 18.2-474.1; escape from jail, as set out in § 18.2-477; felonies by prisoners, as set out in § 53.1-203; or an equivalent offense in another state; (ii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, in the five years prior to the application date for employment; or (iii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, and continue on probation or parole or have failed to pay required court costs 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;

- 1105 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 1106 Robbery, as set out in § 18.2-58;
- 1107 Carjacking, as set out in § 18.2-58.1;
- 1108 Extortion by threat, as set out in § 18.2-59;
- 1109 Threat of death or bodily injury, as set out in § 18.2-60;
- 1110 Any felony stalking offense, as set out in § 18.2-60.3;
- 1111 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 1112 Rape, as set out in § 18.2-61;
- 1113 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 1114 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 1115 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 1116 set out in § 18.2-64.2;
- 1117 Forcible sodomy, as set out in § 18.2-67.1;
- 1118 Object sexual penetration, as set out in § 18.2-67.2;
- 1119 Aggravated sexual battery, as set out in § 18.2-67.3;
- 1120 Sexual battery, as set out in § 18.2-67.4;
- 1121 Infected sexual battery, as set out in § 18.2-67.4.1;
- 1122 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 1123 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 1124 battery, as set out in § 18.2-67.5;
- 1125 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 1126 or
- 1127 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 1128 2. Crimes against property, or an equivalent offense in another state:
- 1129 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 1130 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 1131 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 1132 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 1133 Burning building or structure while in such building or structure with intent to commit a felony, as
- 1134 set out in § 18.2-82;
- 1135 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 1136 such buildings, etc., as set out in § 18.2-83;
- 1137 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 1138 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 1139 § 18.2-85;
- 1140 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 1141 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
- 1142 § 18.2-87;
- 1143 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
- 1144 18.2-87.1;
- 1145 Carelessly damaging property by fire, as set out in § 18.2-88;
- 1146 Burglary, as set out in § 18.2-89;
- 1147 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
- 1148 § 18.2-90;
- 1149 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
- 1150 set out in § 18.2-91;
- 1151 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §
- 1152 18.2-92;
- 1153 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
- 1154 Possession of burglarious tools, etc., as set out in § 18.2-94;
- 1155 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
- 1156 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
- 1157 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
- 1158 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
- 1159 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
- 1160 Allowing a minor or incapacitated person to be present during manufacture or attempted
- 1161 manufacture of methamphetamine, as set out in § 18.2-248.02;
- 1162 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
- 1163 distribute methamphetamine, as set out in § 18.2-248.03;
- 1164 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out
- 1165 in § 18.2-248.1;

1166 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
1167 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;
1168 Distribution of flunitrazepam, as set out in § 18.2-251.2;
1169 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
1170 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
1171 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
1172 Conspiracy, as set out in § 18.2-256;
1173 Attempts, as set out in § 18.2-257;
1174 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
1175 in § 18.2-258;
1176 Maintaining a fortified drug house, as set out in § 18.2-258.02;
1177 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
1178 as set out in § 18.2-258.1; or
1179 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
1180 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, in
1181 the five years prior to the application date for employment or if the person continues on probation or
1182 parole or has failed to pay required court costs:
1183 Possession of controlled substances, as set out in § 18.2-250;
1184 Possession of flunitrazepam, as set out in § 18.2-251.2;
1185 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
1186 Conspiracy, as set out in § 18.2-256; or
1187 Attempts, as set out in § 18.2-257;
1188 5. Crimes involving health or safety, or an equivalent offense in another state:
1189 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
1190 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
1191 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
1192 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
1193 § 18.2-300; or
1194 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
1195 6. Crimes involving morals and decency, or an equivalent offense in another state:
1196 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
1197 Crimes against nature, as set out in § 18.2-361, involving children;
1198 Incest, as set out in § 18.2-366;
1199 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
1200 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
1201 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
1202 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
1203 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
1204 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
1205 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
1206 Abuse or neglect of children, as set out in § 18.2-371.1;
1207 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
1208 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
1209 § 18.2-374.1.1;
1210 Use of communications systems to facilitate certain crimes involving children, as set out in §
1211 18.2-374.3;
1212 Employing or permitting a minor to assist in an act constituting an offense under Article 5
1213 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
1214 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
1215 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
1216 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
1217 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
1218 7. Crimes against the administration of justice, or an equivalent offense in another state:
1219 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
1220 § 18.2-474.1; or
1221 Escape from jail, as set out in § 18.2-477; or
1222 8. Any felony offense by prisoners as set out in § 53.1-203.
1223 C. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that
1224 no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied
1225 employment because of information appearing on his criminal history record and the applicant disputes
1226 the information upon which the denial was based, the Central Criminal Records Exchange shall, upon
1227 written request, furnish to the applicant the procedures for obtaining a copy of the criminal history

record from the FBI. The information provided to the state facility or Department shall not be disseminated except as provided in this section.

D. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on them.

E. The Board may adopt regulations to comply with the provisions of this section. Copies of any information received by the state facility or Department pursuant to this section shall be available to the Department and to the applicable state facility but shall not be disseminated further, except as permitted by state or federal law. The cost of obtaining the criminal history record and the central registry information shall be borne by the applicant, unless the Department or state facility decides to pay the cost.

§ 37.2-408.1. Background check required; children's residential facilities.

A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or providing services on a regular basis, every children's residential facility that is regulated or operated by the Department shall require any person who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 2008, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2008, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2008, to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the person's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the person. The children's residential facility shall inform the person 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 person's eligibility to have responsibility for the safety and well-being of children. The person 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 a person to work with children.

The Central Criminal Records Exchange, upon receipt of a person's record or notification that no record exists, shall forward it to the state agency that operates or regulates the children's residential facility with which the person is affiliated. The state agency shall, upon receipt of a person'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 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; carjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threat as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out § 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

1289 (b) convicted of any felony violation relating to possession of drugs set out in Article 1 (§ 18.2-247 et
 1290 seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date for employment, to be a
 1291 volunteer, or to provide contractual services; or (c) convicted of any felony violation relating to
 1292 possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and continue
 1293 on probation or parole or have failed to pay required court costs any of the following:
 1294 1. Crimes against the person, or an equivalent offense in another state:
 1295 Capital murder, as set out in § 18.2-31;
 1296 First or second degree murder, as set out in § 18.2-32;
 1297 Murder of a pregnant woman, as set out in § 18.2-32.1;
 1298 Killing of a fetus, as set out in § 18.2-32.2;
 1299 Felony homicide, as set out in § 18.2-33;
 1300 Voluntary manslaughter, as set out in § 18.2-35;
 1301 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
 1302 Malicious wounding by mob, as set out in § 18.2-41;
 1303 Assault and battery by mob, as set out in § 18.2-42;
 1304 Abduction, as set out in subsection A or B of § 18.2-47;
 1305 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
 1306 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
 1307 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
 1308 emergency medical service providers, as set out in § 18.2-51.1;
 1309 Aggravated malicious wounding, as set out in § 18.2-51.2;
 1310 Reckless endangerment, as set out in § 18.2-51.3;
 1311 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
 1312 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
 1313 § 18.2-51.5;
 1314 Strangulation of another, as set out in § 18.2-51.6;
 1315 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
 1316 as set out in § 18.2-52;
 1317 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
 1318 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
 1319 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
 1320 Attempts to poison, as set out in § 18.2-54.1;
 1321 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
 1322 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
 1323 probationers, or adult parolees, as set out in § 18.2-55;
 1324 Hazing of youth gang members, as set out in § 18.2-55.1;
 1325 Hazing, as set out in § 18.2-56;
 1326 Reckless handling of firearms, as set out in § 18.2-56.1;
 1327 Allowing access to firearms by children, as set out in § 18.2-56.2;
 1328 Assault and battery, as set out in § 18.2-57;
 1329 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
 1330 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
 1331 Assault and battery against a family or household member, as set out in § 18.2-57.2;
 1332 Robbery, as set out in § 18.2-58;
 1333 Carjacking, as set out in § 18.2-58.1;
 1334 Extortion by threat, as set out in § 18.2-59;
 1335 Threat of death or bodily injury, as set out in § 18.2-60;
 1336 Any felony stalking offense, as set out in § 18.2-60.3;
 1337 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
 1338 Rape, as set out in § 18.2-61;
 1339 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
 1340 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
 1341 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
 1342 set out in § 18.2-64.2;
 1343 Forcible sodomy, as set out in § 18.2-67.1;
 1344 Object sexual penetration, as set out in § 18.2-67.2;
 1345 Aggravated sexual battery, as set out in § 18.2-67.3;
 1346 Sexual battery, as set out in § 18.2-67.4;
 1347 Infected sexual battery, as set out in § 18.2-67.4.1;
 1348 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
 1349 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
 1350 battery, as set out in § 18.2-67.5;

1351 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;*
 1352 *or*
 1353 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
 1354 *2. Crimes against property, or an equivalent offense in another state:*
 1355 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 1356 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 1357 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 1358 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 1359 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 1360 *set out in § 18.2-82;*
 1361 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 1362 *such buildings, etc., as set out in § 18.2-83;*
 1363 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 1364 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 1365 *§ 18.2-85;*
 1366 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 1367 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 1368 *§ 18.2-87;*
 1369 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 1370 *18.2-87.1;*
 1371 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 1372 *Burglary, as set out in § 18.2-89;*
 1373 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 1374 *§ 18.2-90;*
 1375 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 1376 *set out in § 18.2-91;*
 1377 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
 1378 *18.2-92;*
 1379 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 1380 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 1381 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 1382 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 1383 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1384 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 1385 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 1386 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 1387 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 1388 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1389 *distribute methamphetamine, as set out in § 18.2-248.03;*
 1390 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 1391 *in § 18.2-248.1;*
 1392 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1393 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 1394 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 1395 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 1396 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 1397 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 1398 *Conspiracy, as set out in § 18.2-256;*
 1399 *Attempts, as set out in § 18.2-257;*
 1400 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 1401 *in § 18.2-258;*
 1402 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 1403 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 1404 *as set out in § 18.2-258.1; or*
 1405 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 1406 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if*
 1407 *less than five years have elapsed between the date of conviction and the date of application for*
 1408 *employment or if the applicant continues to be on probation or parole or has failed to pay required*
 1409 *court costs:*
 1410 *Possession of controlled substances, as set out in § 18.2-250;*
 1411 *Possession of flunitrazepam, as set out in § 18.2-251.2;*

1412 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
1413 Conspiracy, as set out in § 18.2-256; or
1414 Attempts, as set out in § 18.2-257;
1415 5. Crimes involving health or safety, or an equivalent offense in another state:
1416 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
1417 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
1418 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
1419 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
1420 § 18.2-300; or
1421 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
1422 6. Crimes involving morals and decency, or an equivalent offense in another state:
1423 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
1424 Crimes against nature, as set out in § 18.2-361, involving children;
1425 Incest, as set out in § 18.2-366;
1426 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
1427 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
1428 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
1429 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
1430 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
1431 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
1432 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
1433 Abuse or neglect of children, as set out in § 18.2-371.1;
1434 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
1435 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
1436 § 18.2-374.1:1;
1437 Use of communications systems to facilitate certain crimes involving children, as set out in §
1438 18.2-374.3; or
1439 Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§
1440 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;
1441 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
1442 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
1443 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
1444 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
1445 7. Crimes against the administration of justice, or an equivalent offense in another state:
1446 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
1447 § 18.2-474.1; or
1448 Escape from jail, as set out in § 18.2-477; or
1449 8. Any felony offense by prisoners as set out in § 53.1-203.
1450 The provisions of this section also shall apply to structured residential programs, excluding secure
1451 detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for
1452 intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or
1453 supervision.
1454 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
1455 compensated employment or for volunteer or contractual service purposes persons who have been
1456 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have
1457 elapsed following the conviction, unless the person committed such offense in the scope of his
1458 employment, volunteer, or contractual services.
1459 If the person is denied employment, or the opportunity to volunteer or provide services, at a
1460 children's residential facility because of information appearing on his criminal history record, and the
1461 person disputes the information upon which the denial was based, upon written request of the person the
1462 state agency shall furnish the person the procedures for obtaining his criminal history record from the
1463 Federal Bureau of Investigation. If the person has been permitted to assume duties that do not involve
1464 contact with children pending receipt of the report, the children's residential facility is not precluded
1465 from suspending the person from his position pending a final determination of the person's eligibility to
1466 have responsibility for the safety and well-being of children. The information provided to the children's
1467 residential facility shall not be disseminated except as provided in this section.
1468 C. Those persons listed in clauses (i), (ii), and (iii) of subsection A also shall authorize the children's
1469 residential facility to obtain a copy of information from the central registry maintained pursuant to §
1470 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person shall provide
1471 the children's residential facility with a written statement or affirmation disclosing whether he has ever
1472 been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The
1473 children's residential facility shall receive the results of the central registry search prior to permitting a

person to work alone with children. Children's residential facilities regulated or operated by the Department shall not hire for compensated employment, or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.

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

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

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

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

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

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

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

a. 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

- 1535 § 18.2-51.5;
1536 Strangulation of another, as set out in § 18.2-51.6;
1537 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
1538 as set out in § 18.2-52;
1539 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
1540 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
1541 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
1542 Attempts to poison, as set out in § 18.2-54.1;
1543 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
1544 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
1545 probationers, or adult parolees, as set out in § 18.2-55;
1546 Hazing of youth gang members, as set out in § 18.2-55.1;
1547 Hazing, as set out in § 18.2-56;
1548 Reckless handling of firearms, as set out in § 18.2-56.1;
1549 Allowing access to firearms by children, as set out in § 18.2-56.2;
1550 Assault and battery, as set out in § 18.2-57;
1551 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
1552 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
1553 Assault and battery against a family or household member, as set out in § 18.2-57.2;
1554 Robbery, as set out in § 18.2-58;
1555 Carjacking, as set out in § 18.2-58.1;
1556 Extortion by threat, as set out in § 18.2-59;
1557 Threat of death or bodily injury, as set out in § 18.2-60;
1558 Any felony stalking offense, as set out in § 18.2-60.3;
1559 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
1560 Rape, as set out in § 18.2-61;
1561 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
1562 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
1563 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
1564 set out in § 18.2-64.2;
1565 Forcible sodomy, as set out in § 18.2-67.1;
1566 Object sexual penetration, as set out in § 18.2-67.2;
1567 Aggravated sexual battery, as set out in § 18.2-67.3;
1568 Sexual battery, as set out in § 18.2-67.4;
1569 Infected sexual battery, as set out in § 18.2-67.4.1;
1570 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
1571 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
1572 battery, as set out in § 18.2-67.5;
1573 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
1574 or
1575 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
1576 b. Crimes against property, or an equivalent offense in another state:
1577 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
1578 Burning or destroying meeting house, etc., as set out in § 18.2-79;
1579 Burning or destroying any other building or structure, as set out in § 18.2-80;
1580 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
1581 Burning building or structure while in such building or structure with intent to commit a felony, as
1582 set out in § 18.2-82;
1583 Threats to bomb or damage buildings or means of transportation; false information as to danger to
1584 such buildings, etc., as set out in § 18.2-83;
1585 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
1586 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
1587 § 18.2-85;
1588 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
1589 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
1590 § 18.2-87;
1591 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
1592 18.2-87.1;
1593 Carelessly damaging property by fire, as set out in § 18.2-88;
1594 Burglary, as set out in § 18.2-89;
1595 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in §
1596 18.2-90;

1597 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 1598 *set out in § 18.2-91;*
 1599 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
 1600 *18.2-92;*
 1601 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 1602 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 1603 *c. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 1604 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 1605 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1606 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 1607 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 1608 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 1609 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 1610 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1611 *distribute methamphetamine, as set out in § 18.2-248.03;*
 1612 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 1613 *in § 18.2-248.1;*
 1614 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 1615 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 1616 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 1617 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 1618 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 1619 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 1620 *Conspiracy, as set out in § 18.2-256;*
 1621 *Attempts, as set out in § 18.2-257;*
 1622 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 1623 *in § 18.2-258;*
 1624 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 1625 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 1626 *as set out in § 18.2-258.1; or*
 1627 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 1628 *d. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 1629 *Possession of controlled substances, as set out in § 18.2-250;*
 1630 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 1631 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 1632 *Conspiracy, as set out in § 18.2-256; or*
 1633 *Attempts, as set out in § 18.2-257;*
 1634 *e. Crimes involving health or safety, or an equivalent offense in another state:*
 1635 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 1636 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 1637 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 1638 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 1639 *§ 18.2-300; or*
 1640 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 1641 *f. Crimes involving morals and decency, or an equivalent offense in another state:*
 1642 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 1643 *Crimes against nature, as set out in § 18.2-361, involving children;*
 1644 *Incest, as set out in § 18.2-366;*
 1645 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 1646 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 1647 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 1648 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 1649 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 1650 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 1651 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 1652 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 1653 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 1654 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 1655 *§ 18.2-374.1.1;*
 1656 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 1657 *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;

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

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

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

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

i. Any felony offense other than those listed in subdivisions a through h if less than five years have elapsed between the date of conviction and the date of application.

Copies of any information received by a local board or licensed child-placing agency pursuant to this section shall be available to the state agency that regulates or operates such a child-placing agency but shall not be disseminated further; and

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

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

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

E. The child-placing agency shall not approve a foster or adoptive home if any individual has a record of an offense defined in § 63.2-1719 been convicted of a crime listed in subsection B or has a founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42 U.S.C.S. 16901 et seq. A However, a child-placing agency may approve as an adoptive or a foster parent an applicant convicted of (i) not more than one misdemeanor as set out in § 18.2-57, not involving the abuse, neglect, or moral turpitude of a minor, provided 10 years have elapsed following the conviction; (ii) 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; (iii) felony possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction.

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

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

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

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

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

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

Attempts, as set out in § 18.2-257; or

2. A misdemeanor offense relating to arson, or an equivalent offense in another state:
 Burning or destroying any other building or structure, as set out in § 18.2-80;
 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in § 18.2-87;
 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in § 18.2-87.1; or
 Carelessly damaging property by fire, as set out in § 18.2-88.
- § 63.2-1601.1. Criminal history check for agency approved providers of services to adults.**
- A. Each local board shall obtain, in accordance with regulations adopted promulgated by the Board Commissioner for Aging and Rehabilitative Services, criminal history record information from the Central Criminal Records Exchange of any individual the local board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on all adult household members residing in the home of the individual with whom the adult is to be placed. The local board shall not hire for compensated employment any persons who have been convicted of an offense as defined in § 63.2-1719 any of the following:
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;

- 1781 *Rape, as set out in § 18.2-61;*
 1782 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
 1783 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
 1784 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
 1785 *set out in § 18.2-64.2;*
 1786 *Forcible sodomy, as set out in § 18.2-67.1;*
 1787 *Object sexual penetration, as set out in § 18.2-67.2;*
 1788 *Aggravated sexual battery, as set out in § 18.2-67.3;*
 1789 *Sexual battery, as set out in § 18.2-67.4;*
 1790 *Infected sexual battery, as set out in § 18.2-67.4:1;*
 1791 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4:2;*
 1792 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
 1793 *battery, as set out in § 18.2-67.5;*
 1794 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;*
 1795 *or*
 1796 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
 1797 *2. Crimes against property, or an equivalent offense in another state:*
 1798 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 1799 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 1800 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 1801 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 1802 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 1803 *set out in § 18.2-82;*
 1804 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 1805 *such buildings, etc., as set out in § 18.2-83;*
 1806 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 1807 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 1808 *§ 18.2-85;*
 1809 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 1810 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 1811 *§ 18.2-87;*
 1812 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 1813 *18.2-87.1; or*
 1814 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 1815 *3. Crimes involving health or safety, or an equivalent offense in another state:*
 1816 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 1817 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 1818 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 1819 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 1820 *§ 18.2-300; or*
 1821 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 1822 *4. Crimes involving morals and decency, or an equivalent offense in another state:*
 1823 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 1824 *Crimes against nature, as set out in § 18.2-361, involving children;*
 1825 *Incest, as set out in § 18.2-366;*
 1826 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 1827 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 1828 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 1829 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 1830 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 1831 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 1832 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 1833 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 1834 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 1835 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 1836 *§ 18.2-374.1:1;*
 1837 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 1838 *18.2-374.3;*
 1839 *Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§*
 1840 *18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 1841 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 1842 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*

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

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

Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, 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.

If approval as an ~~agency approved~~ agency-approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local board, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the criminal history record information is prohibited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. The scope of services in contracts shall include:

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

1904 provided in subsection A; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1965 1. Intent to operate a certified preschool program;

- 1966 2. Documentary evidence that the school has been accredited as provided in subsection A;
 1967 3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having
 1968 charge of a child enrolled in the school's preschool program the fact of the program's exemption from
 1969 licensure;
 1970 4. Documentary evidence that the physical facility in which the preschool program will be conducted
 1971 has been inspected (i) before initial certification by the local building official and (ii) within the
 1972 12-month period prior to initial certification and at least annually thereafter by the local health
 1973 department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an
 1974 inspection report which documents that the facility is in compliance with applicable laws and regulations
 1975 pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire
 1976 Prevention Code or the Uniform Statewide Building Code;
 1977 5. Documentation that the school has disclosed the following in writing to the parents, guardians, or
 1978 persons having charge of a child enrolled in the school's preschool program, and in a written statement
 1979 available to the general public: (i) the school facility is in compliance with applicable laws and
 1980 regulations pertaining to food services, health and sanitation, water supply, building codes, and the
 1981 Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's
 1982 maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff
 1983 health requirements, and (iv) a description of the school's public liability insurance, if any;
 1984 6. Qualifications of school personnel who work in the preschool program; and
 1985 7. Documentary evidence that the private school requires all employees of the preschool and other
 1986 school employees who have contact with the children enrolled in the preschool program to obtain a
 1987 criminal record check as provided in ~~subdivision A 11 of § 19.2-389~~ as a condition of initial or
 1988 continued employment. The school shall not hire or continue employment of any such person who ~~has~~
 1989 ~~an offense specified in § 63.2-1719~~ *is the subject of a founded complaint of child abuse or neglect*
 1990 *within or outside the Commonwealth or has been convicted of any of the following:*
 1991 *a. Crimes against the person, or an equivalent offense in another state:*
 1992 *Capital murder, as set out in § 18.2-31;*
 1993 *First or second degree murder, as set out in § 18.2-32;*
 1994 *Murder of a pregnant woman, as set out in § 18.2-32.1;*
 1995 *Killing of a fetus, as set out in § 18.2-32.2;*
 1996 *Felony homicide, as set out in § 18.2-33;*
 1997 *Voluntary manslaughter, as set out in § 18.2-35;*
 1998 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*
 1999 *Malicious wounding by mob, as set out in § 18.2-41;*
 2000 *Assault or battery by mob, as set out in § 18.2-42;*
 2001 *Abduction, as set out in subsection A or B of § 18.2-47;*
 2002 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*
 2003 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*
 2004 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
 2005 *emergency medical service providers, as set out in § 18.2-51.1;*
 2006 *Aggravated malicious wounding, as set out in § 18.2-51.2;*
 2007 *Reckless endangerment, as set out in § 18.2-51.3;*
 2008 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*
 2009 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
 2010 *§ 18.2-51.5;*
 2011 *Strangulation of another, as set out in § 18.2-51.6;*
 2012 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
 2013 *as set out in § 18.2-52;*
 2014 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*
 2015 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*
 2016 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*
 2017 *Attempts to poison, as set out in § 18.2-54.1;*
 2018 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*
 2019 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
 2020 *probationers, or adult parolees, as set out in § 18.2-55;*
 2021 *Hazing of youth gang members, as set out in § 18.2-55.1;*
 2022 *Hazing, as set out in § 18.2-56;*
 2023 *Reckless handling of firearms, as set out in § 18.2-56.1;*
 2024 *Allowing access to firearms by children, as set out in § 18.2-56.2;*
 2025 *Assault and battery, as set out in § 18.2-57;*
 2026 *Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;*

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

2089 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2090 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 2091 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 2092 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2093 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 2094 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 2095 *Conspiracy, as set out in § 18.2-256;*
 2096 *Attempts, as set out in § 18.2-257;*
 2097 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 2098 *in § 18.2-258;*
 2099 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 2100 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 2101 *as set out in § 18.2-258.1; or*
 2102 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 2103 *d. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 2104 *Possession of controlled substances, as set out in § 18.2-250;*
 2105 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 2106 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2107 *Conspiracy, as set out in § 18.2-256; or*
 2108 *Attempts, as set out in § 18.2-257;*
 2109 *e. Crimes involving health or safety, or an equivalent offense in another state:*
 2110 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2111 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 2112 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 2113 *§ 18.2-300; or*
 2114 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2115 *f. Crimes involving morals and decency, or an equivalent offense in another state:*
 2116 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2117 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2118 *Incest, as set out in § 18.2-366;*
 2119 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2120 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2121 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2122 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2123 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2124 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2125 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2126 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2127 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2128 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 2129 *§ 18.2-374.1.1;*
 2130 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 2131 *18.2-374.3;*
 2132 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 2133 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 2134 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 2135 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 2136 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 2137 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2138 *g. Crimes against the administration of justice, or an equivalent offense in another state:*
 2139 *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in*
 2140 *§ 18.2-474.1; or*
 2141 *Escape from jail, as set out in § 18.2-477;*
 2142 *h. Any felony offense by prisoners as set out in § 53.1-203; or*
 2143 *i. Any felony offense other than those listed in subdivisions a through h if less than five years have*
 2144 *elapsed between the date of conviction and the date of application.*
 2145 *All accredited private schools seeking certification of preschool programs shall file such information*
 2146 *on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of*
 2147 *accredited private schools which comply with the provisions of subsection A.*
 2148 *F. A preschool program of a private school that has not been accredited as provided in subsection A,*
 2149 *or which has not provided documentation to the Commissioner that it has initiated the accreditation*

2150 process, shall be subject to licensure.

2151 The Commissioner shall issue a provisional certificate to a private school which provides
 2152 documentation to the Commissioner that it has initiated the accreditation process. The provisional
 2153 certificate shall permit the school to operate its preschool program during the accreditation process
 2154 period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A
 2155 provisional certificate may be renewed up to an additional year if the accrediting organization provides a
 2156 statement indicating it has visited the school within the previous six months and the school has made
 2157 sufficient progress. Such programs shall not be subject to licensure during the provisional certification
 2158 period.

2159 G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner
 2160 shall revoke the provisional certification and the program shall thereafter be subject to licensure.

2161 H. If the preschool program of a private school which is accredited as provided in subsection A fails
 2162 to file the statement and the required documentary evidence, the Commissioner shall notify the school of
 2163 its noncompliance and may thereafter take such action as he determines appropriate, including notice
 2164 that the program is required to be licensed.

2165 I. The revocation or denial of the certification of a preschool program shall be subject to appeal
 2166 pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a
 2167 final agency decision shall be in accordance with the provisions of the Administrative Process Act.

2168 J. Any person who has reason to believe that a private school falling within the provisions of this
 2169 section is in noncompliance with any applicable requirement of this section may report the same to the
 2170 Department, the local department, the local health department, or the local fire marshal, each of which
 2171 may inspect the school for noncompliance, give reasonable notice to the school of the nature of its
 2172 noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin
 2173 the operation of the preschool program.

2174 K. Upon receipt of a complaint concerning a certified preschool program of an accredited private
 2175 school, or of a private school to which provisional certification has been issued, if for good cause shown
 2176 there is reason to suspect that the school is in noncompliance with any provision of this section or the
 2177 health or safety of the children attending the preschool program is in danger, the Commissioner shall
 2178 cause an investigation to be made, including on-site visits as he deems necessary of the services,
 2179 personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable
 2180 opportunity to inspect the school's program, records, and facility, and to interview the employees and
 2181 any child or parent or guardian of a child who is or has been enrolled in the preschool program. If,
 2182 upon completion of the investigation, it is determined that the school is in noncompliance with the
 2183 provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of
 2184 its noncompliance and thereafter may take appropriate action as provided by law, including a suit to
 2185 enjoin the operation of the preschool program.

2186 L. Failure of a private school to comply with the provisions of this section, or a finding that the
 2187 health and safety of the children attending the preschool program are in clear and substantial danger
 2188 upon the completion of an investigation, shall be grounds for revocation of the certification issued
 2189 pursuant to this section.

2190 M. If a private school operates a child day program outside the scope of its instructional classes
 2191 during the school year or operates a child day program during the summer, the child day program shall
 2192 be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

2193 N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of
 2194 a private school from obtaining a license pursuant to this subtitle.

2195 **§ 63.2-1720. Employment for compensation of persons or use of volunteers convicted of certain**
 2196 **offenses prohibited; background check required; penalty.**

2197 A. An assisted living facility; or adult day care center ~~or~~ licensed in accordance with the provisions
 2198 of this chapter shall not hire for compensated employment persons who have been convicted of any of
 2199 the following:

2200 1. Crimes against the person, or an equivalent offense in another state:

2201 Capital murder, as set out in § 18.2-31;

2202 First or second degree murder, as set out in § 18.2-32;

2203 Murder of a pregnant woman, as set out in § 18.2-32.1;

2204 Killing of a fetus, as set out in § 18.2-32.2;

2205 Felony homicide, as set out in § 18.2-33;

2206 Voluntary manslaughter, as set out in § 18.2-35;

2207 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;

2208 Malicious wounding by mob, as set out in § 18.2-41;

2209 Assault or battery by mob, as set out in § 18.2-42;

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

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

- 2212 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
- 2213 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
- 2214 emergency medical service providers, as set out in § 18.2-51.1;
- 2215 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 2216 Reckless endangerment, as set out in § 18.2-51.3;
- 2217 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 2218 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 2219 § 18.2-51.5;
- 2220 Strangulation of another, as set out in § 18.2-51.6;
- 2221 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 2222 as set out in § 18.2-52;
- 2223 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 2224 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 2225 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 2226 Attempts to poison, as set out in § 18.2-54.1;
- 2227 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 2228 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 2229 probationers, or adult parolees, as set out in § 18.2-55;
- 2230 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2231 Hazing, as set out in § 18.2-56;
- 2232 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2233 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2234 Assault and battery, as set out in § 18.2-57;
- 2235 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2236 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2237 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2238 Robbery, as set out in § 18.2-58;
- 2239 Carjacking, as set out in § 18.2-58.1;
- 2240 Extortion by threat, as set out in § 18.2-59;
- 2241 Threat of death or bodily injury, as set out in § 18.2-60;
- 2242 Any felony stalking offense, as set out in § 18.2-60.3;
- 2243 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2244 Rape, as set out in § 18.2-61;
- 2245 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2246 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2247 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2248 set out in § 18.2-64.2;
- 2249 Forcible sodomy, as set out in § 18.2-67.1;
- 2250 Object sexual penetration, as set out in § 18.2-67.2;
- 2251 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2252 Sexual battery, as set out in § 18.2-67.4;
- 2253 Infected sexual battery, as set out in § 18.2-67.4.1;
- 2254 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 2255 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2256 battery, as set out in § 18.2-67.5;
- 2257 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 2258 or
- 2259 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 2260 2. Crimes against property, or an equivalent offense in another state:
- 2261 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2262 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2263 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2264 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2265 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2266 set out in § 18.2-82;
- 2267 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2268 such buildings, etc., as set out in § 18.2-83;
- 2269 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2270 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 2271 § 18.2-85;
- 2272 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;

2273 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 2274 *§ 18.2-87;*
 2275 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 2276 *18.2-87.1; or*
 2277 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2278 *3. Crimes involving health or safety, or an equivalent offense in another state:*
 2279 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2280 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2281 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 2282 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 2283 *§ 18.2-300; or*
 2284 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2285 *4. Crimes involving morals and decency, or an equivalent offense in another state:*
 2286 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2287 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2288 *Incest, as set out in § 18.2-366;*
 2289 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2290 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2291 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2292 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2293 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2294 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2295 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2296 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2297 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2298 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in §*
 2299 *18.2-374.1.1;*
 2300 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 2301 *18.2-374.3;*
 2302 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 2303 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 2304 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 2305 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 2306 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 2307 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2308 *5. Crimes against the administration of justice, or an equivalent offense in another state:*
 2309 *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in*
 2310 *§ 18.2-474.1; or*
 2311 *Escape from jail, as set out in § 18.2-477; or*
 2312 *6. Any felony offense by prisoners as set out in § 53.1-203.*
 2313 *Such employees shall undergo background checks pursuant to subsection E*
 2314 *B. A child welfare agency licensed or registered in accordance with the provisions of this chapter, or*
 2315 *family day homes approved by family day systems, shall not hire for compensated employment in a*
 2316 *position that is involved in the day-to-day operations of such agency or in a position in which they will*
 2317 *be alone with, in control of, or supervising one or more children, persons who have an offense as*
 2318 *defined in § 63.2-1719 are the subject of a founded complaint of child abuse or neglect within or*
 2319 *outside the Commonwealth or have been convicted of any of the following:*
 2320 *1. Crimes against the person, or an equivalent offense in another state:*
 2321 *Capital murder, as set out in § 18.2-31;*
 2322 *First or second degree murder, as set out in § 18.2-32;*
 2323 *Murder of a pregnant woman, as set out in § 18.2-32.1;*
 2324 *Killing of a fetus, as set out in § 18.2-32.2;*
 2325 *Felony homicide, as set out in § 18.2-33;*
 2326 *Voluntary manslaughter, as set out in § 18.2-35;*
 2327 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*
 2328 *Malicious wounding by mob, as set out in § 18.2-41;*
 2329 *Assault or battery by mob, as set out in § 18.2-42;*
 2330 *Abduction, as set out in subsection A or B of § 18.2-47;*
 2331 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*
 2332 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*
 2333 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
 2334 *emergency medical service providers, as set out in § 18.2-51.1;*

- 2335 Aggravated malicious wounding, as set out in § 18.2-51.2;
- 2336 Reckless endangerment, as set out in § 18.2-51.3;
- 2337 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
- 2338 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
- 2339 § 18.2-51.5;
- 2340 Strangulation of another, as set out in § 18.2-51.6;
- 2341 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
- 2342 as set out in § 18.2-52;
- 2343 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
- 2344 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
- 2345 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
- 2346 Attempts to poison, as set out in § 18.2-54.1;
- 2347 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
- 2348 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
- 2349 probationers, or adult parolees, as set out in § 18.2-55;
- 2350 Hazing of youth gang members, as set out in § 18.2-55.1;
- 2351 Hazing, as set out in § 18.2-56;
- 2352 Reckless handling of firearms, as set out in § 18.2-56.1;
- 2353 Allowing access to firearms by children, as set out in § 18.2-56.2;
- 2354 Assault and battery, as set out in § 18.2-57;
- 2355 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 2356 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 2357 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 2358 Robbery, as set out in § 18.2-58;
- 2359 Carjacking, as set out in § 18.2-58.1;
- 2360 Extortion by threat, as set out in § 18.2-59;
- 2361 Threat of death or bodily injury, as set out in § 18.2-60;
- 2362 Any felony stalking offense, as set out in § 18.2-60.3;
- 2363 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 2364 Rape, as set out in § 18.2-61;
- 2365 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 2366 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 2367 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
- 2368 set out in § 18.2-64.2;
- 2369 Forcible sodomy, as set out in § 18.2-67.1;
- 2370 Object sexual penetration, as set out in § 18.2-67.2;
- 2371 Aggravated sexual battery, as set out in § 18.2-67.3;
- 2372 Sexual battery, as set out in § 18.2-67.4;
- 2373 Infected sexual battery, as set out in § 18.2-67.4.1;
- 2374 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 2375 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
- 2376 battery, as set out in § 18.2-67.5;
- 2377 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 2378 or
- 2379 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 2380 2. Crimes against property, or an equivalent offense in another state:
- 2381 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 2382 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 2383 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 2384 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 2385 Burning building or structure while in such building or structure with intent to commit a felony, as
- 2386 set out in § 18.2-82;
- 2387 Threats to bomb or damage buildings or means of transportation; false information as to danger to
- 2388 such buildings, etc., as set out in § 18.2-83;
- 2389 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 2390 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in
- 2391 § 18.2-85;
- 2392 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 2393 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
- 2394 § 18.2-87;
- 2395 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §

2396 18.2-87.1;
 2397 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 2398 *Burglary, as set out in § 18.2-89;*
 2399 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
 2400 *§ 18.2-90;*
 2401 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 2402 *set out in § 18.2-91;*
 2403 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
 2404 *18.2-92;*
 2405 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 2406 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 2407 3. *Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 2408 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 2409 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2410 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 2411 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 2412 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 2413 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 2414 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2415 *distribute methamphetamine, as set out in § 18.2-248.03;*
 2416 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 2417 *in § 18.2-248.1;*
 2418 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 2419 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 2420 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 2421 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2422 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 2423 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 2424 *Conspiracy, as set out in § 18.2-256;*
 2425 *Attempts, as set out in § 18.2-257;*
 2426 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 2427 *in § 18.2-258;*
 2428 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 2429 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 2430 *as set out in § 18.2-258.1; or*
 2431 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 2432 4. *Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 2433 *Possession of controlled substances, as set out in § 18.2-250;*
 2434 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 2435 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 2436 *Conspiracy, as set out in § 18.2-256; or*
 2437 *Attempts, as set out in § 18.2-257;*
 2438 5. *Crimes involving health or safety, or an equivalent offense in another state:*
 2439 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2440 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2441 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 2442 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 2443 *§ 18.2-300; or*
 2444 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2445 6. *Crimes involving morals and decency, or an equivalent offense in another state:*
 2446 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2447 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2448 *Incest, as set out in § 18.2-366;*
 2449 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2450 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2451 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2452 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2453 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2454 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2455 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2456 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2457 *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 or committed persons, as set out in § 18.2-474.1; or

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

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

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

Such employees shall undergo background checks pursuant to subsection D E. In the case of child welfare agencies, the provisions of this section shall apply to employees who are involved in the day-to-day operations of such agency or who are alone with, in control of, or supervising one or more children.

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

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

D. E. Background checks pursuant to this section require:

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

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

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

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

F. G. A licensed assisted living facility, licensed adult day care center, a licensed or registered child welfare agency, or a family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for ~~offenses crimes~~ specified in ~~§ 63.2-1719~~ subsection A for licensed assisted living facilities and licensed adult day care centers or subsection B for licensed or registered child welfare agencies and family day homes approved by a family day system or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed or registered child welfare agencies or family day homes approved by family day systems, a copy of the information from the central registry. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the assisted living facility, adult day care center or child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

G. H. No volunteer who has an offense as defined in ~~§ 63.2-1719~~ is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth or has been convicted of a

2519 *crime specified in subsection B* shall be permitted to serve in a licensed or registered child welfare
2520 agency or a family day home approved by a family day system. Any person desiring to volunteer at
2521 such a child welfare agency shall provide the agency with a sworn statement or affirmation pursuant to
2522 subdivision ~~D~~ E 1. Such child welfare agency shall obtain for any volunteers, within 30 days of
2523 commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an
2524 original criminal record clearance with respect to ~~offenses~~ *crimes* specified in ~~§ 63.2-1719~~ *subsection B*
2525 or an original criminal history record from the Central Criminal Records Exchange. Any person making
2526 a materially false statement regarding the sworn statement or affirmation provided pursuant to
2527 subdivision ~~D~~ E 1 shall be guilty of a Class 1 misdemeanor. If a volunteer is denied service because of
2528 information from the central registry or convictions appearing on his criminal history record, such child
2529 welfare agency shall provide a copy of the information obtained from the central registry or the Central
2530 Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only
2531 to volunteers who will be alone with any child in the performance of their duties and shall not apply to
2532 a parent-volunteer of a child attending a licensed or registered child welfare agency, or a family day
2533 home approved by a family day system, whether or not such parent-volunteer will be alone with any
2534 child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group
2535 of children that includes the parent-volunteer's own child in a program that operates no more than four
2536 hours per day, provided that the parent-volunteer works under the direct supervision of a person who
2537 has received a clearance pursuant to this section.

2538 ~~H.~~ I. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult
2539 day care center without the permission or under the supervision of a person who has received a
2540 clearance pursuant to this section.

2541 ~~I.~~ J. Further dissemination of the background check information is prohibited other than to the
2542 Commissioner's representative or a federal or state authority or court as may be required to comply with
2543 an express requirement of law for such further dissemination.

2544 ~~J.~~ K. A licensed assisted living facility shall notify and provide all students a copy of the provisions
2545 of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted
2546 living facility.

2547 ~~K.~~ L. The provisions of this section shall not apply to any children's residential facility licensed
2548 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements
2549 contained in § 63.2-1726.

2550 ~~L.~~ M. A person who complies in good faith with the provisions of this section shall not be liable for
2551 any civil damages for any act or omission in the performance of duties under this section unless the act
2552 or omission was the result of gross negligence or willful misconduct.

2553 **§ 63.2-1721. Background check upon application for licensure or registration as child welfare**
2554 **agency or assisted living facility; background check of family day homes approved by family day**
2555 **systems; penalty.**

2556 A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii)
2557 agents at the time of application who are or will be involved in the day-to-day operations of the child
2558 welfare agency or who are or will be alone with, in control of, or supervising one or more of the
2559 children; and (iii) any other adult living in the home of an applicant for licensure or registration as a
2560 family day home shall undergo a background check. Upon application for licensure as an assisted living
2561 facility, all applicants shall undergo a background check. ~~In addition, foster or adoptive parents~~
2562 ~~requesting approval by child-placing agencies and~~ All operators of family day homes requesting approval
2563 by family day systems, and any other adult residing in the family day home or existing employee or
2564 volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to
2565 their approval.

2566 B. Background checks pursuant to this section require:

2567 1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the
2568 subject of any pending criminal charges within or outside the Commonwealth and whether or not the
2569 person has been the subject of a founded complaint of child abuse or neglect within or outside the
2570 Commonwealth;

2571 2. A criminal history record check through the Central Criminal Records Exchange pursuant to
2572 § 19.2-389; and

2573 3. In the case of child welfare agencies ~~or adoptive or foster parents~~, a search of the central registry
2574 maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

2575 C. The character and reputation investigation pursuant to § 63.2-1702 shall include background
2576 checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the
2577 background check information required in subsection B to the Commissioner's representative prior to
2578 issuance of a license, registration or approval. The applicant shall provide an original criminal record
2579 clearance with respect to ~~offenses~~ *crimes* specified in ~~§ 63.2-1719~~ *this section* or an original criminal
2580 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 guilty of a Class 1 misdemeanor.

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

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;

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;

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 illegal stimulants and steroids, as set out in § 18.2-248.5;
 2689 Distribution of flunitrazepam, as set out in § 18.2-251.2;
 2690 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 2691 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
 2692 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
 2693 Conspiracy, as set out in § 18.2-256;
 2694 Attempts, as set out in § 18.2-257;
 2695 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
 2696 in § 18.2-258;
 2697 Maintaining a fortified drug house, as set out in § 18.2-258.02;
 2698 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
 2699 as set out in § 18.2-258.1; or
 2700 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 2701 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:
 2702 Possession of controlled substances, as set out in § 18.2-250;
 2703 Possession of flunitrazepam, as set out in § 18.2-251.2;

2704 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 2705 Conspiracy, as set out in § 18.2-256; or
 2706 Attempts, as set out in § 18.2-257;
 2707 5. Crimes involving health or safety, or an equivalent offense in another state:
 2708 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 2709 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 2710 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
 2711 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
 2712 § 18.2-300; or
 2713 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 2714 6. Crimes involving morals and decency, or an equivalent offense in another state:
 2715 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 2716 Crimes against nature, as set out in § 18.2-361, involving children;
 2717 Incest, as set out in § 18.2-366;
 2718 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 2719 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 2720 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 2721 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 2722 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 2723 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 2724 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 2725 Abuse or neglect of children, as set out in § 18.2-371.1;
 2726 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 2727 Possession, reproduction, distribution, or facilitation of child pornography, as set out in §
 2728 18.2-374.1:1;
 2729 Use of communications systems to facilitate certain crimes involving children, as set out in §
 2730 18.2-374.3;
 2731 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 2732 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 2733 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 2734 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 2735 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 2736 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 2737 7. Crimes against the administration of justice, or an equivalent offense in another state:
 2738 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
 2739 § 18.2-474.1; or
 2740 Escape from jail, as set out in § 18.2-477;
 2741 8. Any felony offense by prisoners as set out in § 53.1-203; or
 2742 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
 2743 elapsed between the date of conviction and the date of application.
 2744 E. The Commissioner shall not issue a license to an assisted living facility; (iii) a child-placing
 2745 agency shall not approve an adoptive or foster home; or (iv) a family day system shall not approve a
 2746 family day home if any person specified in subsection A required to have a background check has been
 2747 convicted of any of the following:
 2748 1. Crimes against the person, or an equivalent offense in another state:
 2749 Capital murder, as set out in § 18.2-31;
 2750 First or second degree murder, as set out in § 18.2-32;
 2751 Murder of a pregnant woman, as set out in § 18.2-32.1;
 2752 Killing of a fetus, as set out in § 18.2-32.2;
 2753 Felony homicide, as set out in § 18.2-33;
 2754 Voluntary manslaughter, as set out in § 18.2-35;
 2755 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
 2756 Malicious wounding by mob, as set out in § 18.2-41;
 2757 Assault or battery by mob, as set out in § 18.2-42;
 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;*
- 2806 *or*
- 2807 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 2808 *2. Crimes against property, or an equivalent offense in another state:*
- 2809 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 2810 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 2811 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 2812 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 2813 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 2814 *set out in § 18.2-82;*
- 2815 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 2816 *such buildings, etc., as set out in § 18.2-83;*
- 2817 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 2818 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 2819 *§ 18.2-85;*
- 2820 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 2821 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 2822 *§ 18.2-87;*
- 2823 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
- 2824 *18.2-87.1; or*
- 2825 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 2826 *3. Crimes involving health or safety, or an equivalent offense in another state:*

2827 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 2828 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 2829 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 2830 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 2831 *§ 18.2-300; or*
 2832 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 2833 *4. Crimes involving morals and decency, or an equivalent offense in another state:*
 2834 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 2835 *Crimes against nature, as set out in § 18.2-361, involving children;*
 2836 *Incest, as set out in § 18.2-366;*
 2837 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 2838 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 2839 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 2840 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 2841 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 2842 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 2843 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2844 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 2845 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 2846 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in §*
 2847 *18.2-374.1.1;*
 2848 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 2849 *18.2-374.3; or*
 2850 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 2851 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379;*
 2852 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 2853 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 2854 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 2855 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 2856 *5. Crimes against the administration of justice, or an equivalent offense in another state:*
 2857 *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in*
 2858 *§ 18.2-474.1; or*
 2859 *Escape from jail, as set out in § 18.2-477; or*
 2860 *6. Any felony offense by prisoners as set out in § 53.1-203.*
 2861 *D. F. No person specified in subsection A shall be involved in the day-to-day operations of a child*
 2862 *welfare agency; be alone with, in control of, or supervising one or more children receiving services from*
 2863 *a child welfare agency; or be permitted to work in a position that involves direct contact with a person*
 2864 *receiving services without first having completed background checks pursuant to subsection B, unless*
 2865 *such person is directly supervised by another person for whom a background check has been completed*
 2866 *in accordance with the requirements of this section.*
 2867 *E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
 2868 *may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor*
 2869 *as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have*
 2870 *elapsed following the conviction.*
 2871 *F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
 2872 *may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a*
 2873 *dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by*
 2874 *the Governor, provided 25 years have elapsed following the conviction.*
 2875 *G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
 2876 *may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who*
 2877 *has had his civil rights restored by the Governor, provided 10 years have elapsed following the*
 2878 *conviction.*
 2879 *H. G. If an applicant is denied licensure, registration or approval because of information from the*
 2880 *central registry or convictions appearing on his criminal history record, the Commissioner shall provide*
 2881 *a copy of the information obtained from the central registry or the Central Criminal Records Exchange*
 2882 *or both to the applicant.*
 2883 *I. H. Further dissemination of the background check information is prohibited other than to the*
 2884 *Commissioner's representative or a federal or state authority or court as may be required to comply with*
 2885 *an express requirement of law for such further dissemination.*
 2886 *J. I. The provisions of this section referring to a sworn statement or affirmation and to prohibitions*
 2887 *on the issuance of a license for any offense shall not apply to any children's residential facility licensed*

2888 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements
 2889 contained in § 63.2-1726.

2890 **§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain**
 2891 **background check.**

2892 A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare
 2893 agency, an assisted living facility or adult day care center, a child-placing agency may revoke the
 2894 approval of a foster home, and a family day system may revoke the approval of a family day home if
 2895 the assisted living facility, adult day care center, child welfare agency, foster home or approved family
 2896 day home has knowledge that a person specified in §§ 63.2-1720 and 63.2-1721 required to have a
 2897 background check has ~~an offense as defined in § 63.2-1719~~ *been convicted of a crime listed in such*
 2898 *section*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723
 2899 or is not subject to the exceptions in subsection B C of § 63.2-1720 and ~~subsection~~ *subsections E*
 2900 *through H* of § 63.2-1721, and the facility, center or agency refuses to separate such person from
 2901 employment or service.

2902 B. Failure to obtain background checks pursuant to §§ 63.2-1720 and 63.2-1721 shall be grounds for
 2903 denial or revocation of a license, registration or approval. No violation shall occur if the assisted living
 2904 facility, adult day care center or child welfare agency has applied for the background check timely and
 2905 it has not been obtained due to administrative delay. The provisions of this section shall be enforced by
 2906 the Department.

2907 **§ 63.2-1723. Child welfare agencies; criminal conviction and waiver.**

2908 A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is
 2909 disqualified because of a criminal conviction or a criminal conviction in the background check of any
 2910 other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720,
 2911 63.2-1721, and 63.2-1724, may apply in writing for a waiver from the Commissioner. The
 2912 Commissioner may grant a waiver if the Commissioner determines that (i) the person is of good moral
 2913 character and reputation and (ii) the waiver would not adversely affect the safety and well-being of
 2914 children in the person's care. The Commissioner shall not grant a waiver to any person who has been
 2915 convicted of a ~~barrier crime as defined in § 63.2-1719~~ *any of the following*:

2916 1. *Crimes against the person, or an equivalent offense in another state:*

2917 *Capital murder, as set out in § 18.2-31;*

2918 *First or second degree murder, as set out in § 18.2-32;*

2919 *Murder of a pregnant woman, as set out in § 18.2-32.1;*

2920 *Killing of a fetus, as set out in § 18.2-32.2;*

2921 *Felony homicide, as set out in § 18.2-33;*

2922 *Voluntary manslaughter, as set out in § 18.2-35;*

2923 *Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;*

2924 *Malicious wounding by mob, as set out in § 18.2-41;*

2925 *Assault or battery by mob, as set out in § 18.2-42;*

2926 *Abduction, as set out in subsection A or B of § 18.2-47;*

2927 *Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;*

2928 *Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;*

2929 *Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or*
 2930 *emergency medical service providers, as set out in § 18.2-51.1;*

2931 *Aggravated malicious wounding, as set out in § 18.2-51.2;*

2932 *Reckless endangerment, as set out in § 18.2-51.3;*

2933 *Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;*

2934 *Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in*
 2935 *§ 18.2-51.5;*

2936 *Strangulation of another, as set out in § 18.2-51.6;*

2937 *Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,*
 2938 *as set out in § 18.2-52;*

2939 *Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;*

2940 *Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;*

2941 *Use or display of firearm in committing a felony, as set out in § 18.2-53.1;*

2942 *Attempts to poison, as set out in § 18.2-54.1;*

2943 *Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;*

2944 *Bodily injuries caused by prisoners, state juvenile probationers and state and local adult*
 2945 *probationers, or adult parolees, as set out in § 18.2-55;*

2946 *Hazing of youth gang members, as set out in § 18.2-55.1;*

2947 *Hazing, as set out in § 18.2-56;*

2948 *Reckless handling of firearms, as set out in § 18.2-56.1;*

2949 *Allowing access to firearms by children, as set out in § 18.2-56.2;*

- 2950 Assault and battery, as set out in § 18.2-57;
 2951 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
 2952 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
 2953 Assault and battery against a family or household member, as set out in § 18.2-57.2;
 2954 Robbery, as set out in § 18.2-58;
 2955 Carjacking, as set out in § 18.2-58.1;
 2956 Extortion by threat, as set out in § 18.2-59;
 2957 Threat of death or bodily injury, as set out in § 18.2-60;
 2958 Any felony stalking offense, as set out in § 18.2-60.3;
 2959 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
 2960 Rape, as set out in § 18.2-61;
 2961 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
 2962 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
 2963 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
 2964 set out in § 18.2-64.2;
 2965 Forcible sodomy, as set out in § 18.2-67.1;
 2966 Object sexual penetration, as set out in § 18.2-67.2;
 2967 Aggravated sexual battery, as set out in § 18.2-67.3;
 2968 Sexual battery, as set out in § 18.2-67.4;
 2969 Infected sexual battery, as set out in § 18.2-67.4.1;
 2970 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
 2971 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
 2972 battery, as set out in § 18.2-67.5;
 2973 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
 2974 or
 2975 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
 2976 2. Crimes against property, or an equivalent offense in another state:
 2977 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
 2978 Burning or destroying meeting house, etc., as set out in § 18.2-79;
 2979 Burning or destroying any other building or structure, as set out in § 18.2-80;
 2980 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
 2981 Burning building or structure while in such building or structure with intent to commit a felony, as
 2982 set out in § 18.2-82;
 2983 Threats to bomb or damage buildings or means of transportation; false information as to danger to
 2984 such buildings, etc., as set out in § 18.2-83;
 2985 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
 2986 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in §
 2987 18.2-85;
 2988 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
 2989 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in
 2990 § 18.2-87;
 2991 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §
 2992 18.2-87.1;
 2993 Carelessly damaging property by fire, as set out in § 18.2-88;
 2994 Burglary, as set out in § 18.2-89;
 2995 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in
 2996 § 18.2-90;
 2997 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as
 2998 set out in § 18.2-91;
 2999 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §
 3000 18.2-92;
 3001 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or
 3002 Possession of burglarious tools, etc., as set out in § 18.2-94;
 3003 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with
 3004 intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
 3005 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
 3006 distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
 3007 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
 3008 Allowing a minor or incapacitated person to be present during manufacture or attempted
 3009 manufacture of methamphetamine, as set out in § 18.2-248.02;
 3010 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or

3011 *distribute methamphetamine, as set out in § 18.2-248.03;*
 3012 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 3013 *in § 18.2-248.1;*
 3014 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 3015 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 3016 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 3017 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 3018 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 3019 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 3020 *Conspiracy, as set out in § 18.2-256;*
 3021 *Attempts, as set out in § 18.2-257;*
 3022 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 3023 *in § 18.2-258;*
 3024 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 3025 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 3026 *as set out in § 18.2-258.1; or*
 3027 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 3028 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:*
 3029 *Possession of controlled substances, as set out in § 18.2-250;*
 3030 *Possession of flunitrazepam, as set out in § 18.2-251.2;*
 3031 *Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 3032 *Conspiracy, as set out in § 18.2-256; or*
 3033 *Attempts, as set out in § 18.2-257;*
 3034 *5. Crimes involving health or safety, or an equivalent offense in another state:*
 3035 *Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;*
 3036 *Possession or use of machine gun for crime of violence, as set out in § 18.2-289;*
 3037 *Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;*
 3038 *Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of*
 3039 *§ 18.2-300; or*
 3040 *Failing to secure medical attention for an injured child, as set out in § 18.2-314;*
 3041 *6. Crimes involving morals and decency, or an equivalent offense in another state:*
 3042 *Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;*
 3043 *Crimes against nature, as set out in § 18.2-361, involving children;*
 3044 *Incest, as set out in § 18.2-366;*
 3045 *Abuse or neglect of incapacitated adults, as set out in § 18.2-369;*
 3046 *Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;*
 3047 *Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;*
 3048 *Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts*
 3049 *result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required*
 3050 *to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against*
 3051 *Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 3052 *Abuse or neglect of children, as set out in § 18.2-371.1;*
 3053 *Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;*
 3054 *Possession, reproduction, distribution, or facilitation of child pornography, as set out in*
 3055 *§ 18.2-374.1.1;*
 3056 *Use of communications systems to facilitate certain crimes involving children, as set out in §*
 3057 *18.2-374.3;*
 3058 *Employing or permitting a minor to assist in an act constituting an offense under Article 5*
 3059 *(§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or*
 3060 *Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third*
 3061 *or subsequent conviction, when as a result of such third or subsequent conviction the individual is*
 3062 *required to register with the Department of State Police for inclusion in the Sex Offender and Crimes*
 3063 *Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;*
 3064 *7. Crimes against the administration of justice, or an equivalent offense in another state:*
 3065 *Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in*
 3066 *§ 18.2-474.1; or*
 3067 *Escape from jail, as set out in § 18.2-477; or*
 3068 *8. Any felony offense by prisoners as set out in § 53.1-203.*
 3069 *However, the Commissioner may grant a waiver to a family day home regulated by the Department*
 3070 *if any other adult living in the home of the applicant or provider has been convicted of not more than*
 3071 *one misdemeanor offense under § 18.2-57 or § 18.2-57.2, provided (a) five years have elapsed following*
 3072 *the conviction and (b) the Department has conducted a home study that includes, but is not limited to,*

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

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

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

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389. However, no employee shall be permitted to work in a position that involves direct contact with a child until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who has any offense defined in § 63.2-1719 is the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth or has 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;

- 3134 *Threat of death or bodily injury, as set out in § 18.2-60;*
- 3135 *Any felony stalking offense, as set out in § 18.2-60.3;*
- 3136 *Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;*
- 3137 *Rape, as set out in § 18.2-61;*
- 3138 *Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;*
- 3139 *Carnal knowledge of certain minors, as set out in § 18.2-64.1;*
- 3140 *Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as*
- 3141 *set out in § 18.2-64.2;*
- 3142 *Forcible sodomy, as set out in § 18.2-67.1;*
- 3143 *Object sexual penetration, as set out in § 18.2-67.2;*
- 3144 *Aggravated sexual battery, as set out in § 18.2-67.3;*
- 3145 *Sexual battery, as set out in § 18.2-67.4;*
- 3146 *Infected sexual battery, as set out in § 18.2-67.4.1;*
- 3147 *Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;*
- 3148 *Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual*
- 3149 *battery, as set out in § 18.2-67.5;*
- 3150 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1; or*
- 3151 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;*
- 3152 *2. Crimes against property, or an equivalent offense in another state:*
- 3153 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
- 3154 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
- 3155 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
- 3156 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
- 3157 *Burning building or structure while in such building or structure with intent to commit a felony, as*
- 3158 *set out in § 18.2-82;*
- 3159 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
- 3160 *such buildings, etc., as set out in § 18.2-83;*
- 3161 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
- 3162 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
- 3163 *§ 18.2-85;*
- 3164 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
- 3165 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
- 3166 *§ 18.2-87;*
- 3167 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
- 3168 *18.2-87.1;*
- 3169 *Carelessly damaging property by fire, as set out in § 18.2-88;*
- 3170 *Burglary, as set out in § 18.2-89;*
- 3171 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in*
- 3172 *§ 18.2-90;*
- 3173 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
- 3174 *set out in § 18.2-91;*
- 3175 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
- 3176 *18.2-92;*
- 3177 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
- 3178 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
- 3179 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
- 3180 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
- 3181 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3182 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
- 3183 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
- 3184 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
- 3185 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
- 3186 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3187 *distribute methamphetamine, as set out in § 18.2-248.03;*
- 3188 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
- 3189 *in § 18.2-248.1;*
- 3190 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
- 3191 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
- 3192 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
- 3193 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
- 3194 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
- 3195 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*

3196 Conspiracy, as set out in § 18.2-256;
 3197 Attempts, as set out in § 18.2-257;
 3198 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
 3199 in § 18.2-258;
 3200 Maintaining a fortified drug house, as set out in § 18.2-258.02;
 3201 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
 3202 as set out in § 18.2-258.1; or
 3203 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
 3204 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:
 3205 Possession of controlled substances, as set out in § 18.2-250;
 3206 Possession of flunitrazepam, as set out in § 18.2-251.2;
 3207 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
 3208 Conspiracy, as set out in § 18.2-256; or
 3209 Attempts, as set out in § 18.2-257;
 3210 5. Crimes involving health or safety, or an equivalent offense in another state:
 3211 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
 3212 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
 3213 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
 3214 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
 3215 § 18.2-300; or
 3216 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
 3217 6. Crimes involving morals and decency, or an equivalent offense in another state:
 3218 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
 3219 Crimes against nature, as set out in § 18.2-361, involving children;
 3220 Incest, as set out in § 18.2-366;
 3221 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
 3222 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
 3223 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
 3224 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
 3225 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
 3226 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
 3227 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3228 Abuse or neglect of children, as set out in § 18.2-371.1;
 3229 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
 3230 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
 3231 § 18.2-374.1.1; or
 3232 Use of communications systems to facilitate certain crimes involving children, as set out in §
 3233 18.2-374.3;
 3234 Employing or permitting a minor to assist in an act constituting an offense under Article 5
 3235 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
 3236 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
 3237 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
 3238 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
 3239 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
 3240 7. Crimes against the administration of justice, or an equivalent offense in another state:
 3241 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
 3242 § 18.2-474.1; or
 3243 Escape from jail, as set out in § 18.2-477;
 3244 8. Any felony offense by prisoners as set out in § 53.1-203; or
 3245 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
 3246 elapsed between the date of conviction and the date of application.
 3247 Such center shall also require a prospective employee or volunteer or any other person who is
 3248 expected to be alone with one or more children in the child day center to provide a sworn statement or
 3249 affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint
 3250 of child abuse or neglect; or (ii) convicted of a crime or is the subject of pending criminal charges for
 3251 any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The
 3252 foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own
 3253 child. For purposes of this section, convictions shall include prior adult convictions and juvenile
 3254 convictions or adjudications of delinquency based on a crime that would have been a felony if
 3255 committed by an adult within or outside the Commonwealth. Any person making a materially false
 3256 statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied

employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

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

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

Whenever any child day center or family day home that has not met the requirements of §§ 63.2-1720, 63.2-1721, and 63.2-1724 applies to enter into a contract with the Department or a local department to provide child care services to clients of the Department or local department, the Department or local department shall require a criminal records check pursuant to subdivision A 43 of § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child 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 ~~has any offense as defined in § 63.2-1719~~ is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth or has 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;

- 3319 Assault and battery, as set out in § 18.2-57;
- 3320 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
- 3321 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
- 3322 Assault and battery against a family or household member, as set out in § 18.2-57.2;
- 3323 Robbery, as set out in § 18.2-58;
- 3324 Carjacking, as set out in § 18.2-58.1;
- 3325 Extortion by threat, as set out in § 18.2-59;
- 3326 Threat of death or bodily injury, as set out in § 18.2-60;
- 3327 Any felony stalking offense, as set out in § 18.2-60.3;
- 3328 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
- 3329 Rape, as set out in § 18.2-61;
- 3330 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
- 3331 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
- 3332 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as set out in § 18.2-64.2;
- 3333 Forcible sodomy, as set out in § 18.2-67.1;
- 3334 Object sexual penetration, as set out in § 18.2-67.2;
- 3335 Aggravated sexual battery, as set out in § 18.2-67.3;
- 3336 Sexual battery, as set out in § 18.2-67.4;
- 3337 Infected sexual battery, as set out in § 18.2-67.4.1;
- 3338 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
- 3339 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery, as set out in § 18.2-67.5;
- 3340 Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5.1;
- 3341 or
- 3342 Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5.2 or 18.2-67.5.3;
- 3343 2. Crimes against property, or an equivalent offense in another state:
- 3344 Burning or destroying dwelling house, etc., as set out in § 18.2-77;
- 3345 Burning or destroying meeting house, etc., as set out in § 18.2-79;
- 3346 Burning or destroying any other building or structure, as set out in § 18.2-80;
- 3347 Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;
- 3348 Burning building or structure while in such building or structure with intent to commit a felony, as set out in § 18.2-82;
- 3349 Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc., as set out in § 18.2-83;
- 3350 Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;
- 3351 Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in § 18.2-85;
- 3352 Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;
- 3353 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in § 18.2-87;
- 3354 Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in § 18.2-87.1;
- 3355 Carelessly damaging property by fire, as set out in § 18.2-88;
- 3356 Burglary, as set out in § 18.2-89;
- 3357 Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in § 18.2-90;
- 3358 Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as set out in § 18.2-91;
- 3359 Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92;
- 3360 Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93;
- 3361 Possession of burglarious tools, etc., as set out in § 18.2-94;
- 3362 3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:
- 3363 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;
- 3364 Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;
- 3365 Allowing a minor or incapacitated person to be present during manufacture or attempted manufacture of methamphetamine, as set out in § 18.2-248.02;
- 3366 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or

3380 distribute methamphetamine, as set out in § 18.2-248.03;
3381 Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out
3382 in § 18.2-248.1;
3383 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or
3384 distribute illegal stimulants and steroids, as set out in § 18.2-248.5;
3385 Distribution of flunitrazepam, as set out in § 18.2-251.2;
3386 Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
3387 Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;
3388 Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;
3389 Conspiracy, as set out in § 18.2-256;
3390 Attempts, as set out in § 18.2-257;
3391 Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out
3392 in § 18.2-258;
3393 Maintaining a fortified drug house, as set out in § 18.2-258.02;
3394 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,
3395 as set out in § 18.2-258.1; or
3396 Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;
3397 4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state:
3398 Possession of controlled substances, as set out in § 18.2-250;
3399 Possession of flunitrazepam, as set out in § 18.2-251.2;
3400 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
3401 Conspiracy, as set out in § 18.2-256; or
3402 Attempts, as set out in § 18.2-257;
3403 5. Crimes involving health or safety, or an equivalent offense in another state:
3404 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
3405 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
3406 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
3407 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
3408 § 18.2-300; or
3409 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
3410 6. Crimes involving morals and decency, or an equivalent offense in another state:
3411 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
3412 Crimes against nature, as set out in § 18.2-361, involving children;
3413 Incest, as set out in § 18.2-366;
3414 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
3415 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
3416 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
3417 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
3418 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
3419 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
3420 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
3421 Abuse or neglect of children, as set out in § 18.2-371.1;
3422 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
3423 Possession, reproduction, distribution, or facilitation of child pornography, as set out in §
3424 18.2-374.1:1;
3425 Use of communications systems to facilitate certain crimes involving children, as set out in §
3426 18.2-374.3;
3427 Employing or permitting a minor to assist in an act constituting an offense under Article 5
3428 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
3429 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
3430 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
3431 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
3432 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
3433 7. Crimes against the administration of justice, or an equivalent offense in another state:
3434 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
3435 § 18.2-474.1; or
3436 Escape from jail, as set out in § 18.2-477;
3437 8. Any felony offense by prisoners as set out in § 53.1-203; or
3438 9. Any felony offense other than those listed in subdivisions 1 through 8 if less than five years have
3439 elapsed between the date of conviction and the date of application.
3440 The child day center or family day home shall also require the above individuals to provide a sworn
3441 statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded

case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the Department, agents of the Department, or the local department, is prohibited.

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

A. As a condition of employment, volunteering, or providing services on a regular basis, every children's residential facility that is regulated or operated by the Departments of Social Services, Education, Military Affairs, or Behavioral Health and Developmental Services shall require any individual who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 2007, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2007, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2007, to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The children's residential facility shall inform the applicant that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting an applicant to work with children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the children's residential facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the applicant is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social Services shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been (a) convicted of or are the subject of pending charges for the following crimes: a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; carjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threat as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; taking indecent liberties with children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in § 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in

3503 another state; (b) convicted of any felony violation relating to possession of drugs as set out in Article 1
3504 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date for
3505 employment, to be a volunteer, or to provide contractual services; or (c) convicted of any felony
3506 violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
3507 18.2 and continue on probation or parole or have failed to pay required court costs any of the following:
3508 1. Crimes against the person, or an equivalent offense in another state:
3509 Capital murder, as set out in § 18.2-31;
3510 First or second degree murder, as set out in § 18.2-32;
3511 Murder of a pregnant woman, as set out in § 18.2-32.1;
3512 Killing of a fetus, as set out in § 18.2-32.2;
3513 Felony homicide, as set out in § 18.2-33;
3514 Voluntary manslaughter, as set out in § 18.2-35;
3515 Involuntary manslaughter, as set out in § 18.2-36, 18.2-36.1, or 18.2-36.2;
3516 Malicious wounding by mob, as set out in § 18.2-41;
3517 Assault and battery by mob, as set out in § 18.2-42;
3518 Abduction, as set out in subsection A or B of § 18.2-47;
3519 Abduction with intent to extort money or for immoral purpose, as set out in § 18.2-48;
3520 Shooting, stabbing, etc., with intent to maim, kill, etc., as set out in § 18.2-51;
3521 Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or
3522 emergency medical service providers, as set out in § 18.2-51.1;
3523 Aggravated malicious wounding, as set out in § 18.2-51.2;
3524 Reckless endangerment, as set out in § 18.2-51.3;
3525 Maiming, etc., of another resulting from driving while intoxicated, as set out in § 18.2-51.4;
3526 Maiming, etc., of another resulting from operating a watercraft while intoxicated, as set out in
3527 § 18.2-51.5;
3528 Strangulation of another, as set out in § 18.2-51.6;
3529 Malicious bodily injury by means of any caustic substance or agent or use of any explosive or fire,
3530 as set out in § 18.2-52;
3531 Possession of infectious biological substances or radiological agents, as set out in § 18.2-52.1;
3532 Shooting, etc., in committing or attempting a felony, as set out in § 18.2-53;
3533 Use or display of firearm in committing a felony, as set out in § 18.2-53.1;
3534 Attempts to poison, as set out in § 18.2-54.1;
3535 Adulteration of food, drink, drugs, cosmetics, etc., as set out in § 18.2-54.2;
3536 Bodily injuries caused by prisoners, state juvenile probationers and state and local adult
3537 probationers, or adult parolees, as set out in § 18.2-55;
3538 Hazing of youth gang members, as set out in § 18.2-55.1;
3539 Hazing, as set out in § 18.2-56;
3540 Reckless handling of firearms, as set out in § 18.2-56.1;
3541 Allowing access to firearms by children, as set out in § 18.2-56.2;
3542 Assault and battery, as set out in § 18.2-57;
3543 Pointing laser at law-enforcement officer, as set out in § 18.2-57.01;
3544 Disarming a law-enforcement or correctional officer, as set out in § 18.2-57.02;
3545 Assault and battery against a family or household member, as set out in § 18.2-57.2;
3546 Robbery, as set out in § 18.2-58;
3547 Carjacking, as set out in § 18.2-58.1;
3548 Extortion by threat, as set out in § 18.2-59;
3549 Threat of death or bodily injury, as set out in § 18.2-60;
3550 Any felony stalking offense, as set out in § 18.2-60.3;
3551 Any felony violation of a protective order, as set out in § 16.1-253.2 or 18.2-60.4;
3552 Rape, as set out in § 18.2-61;
3553 Carnal knowledge of child between 13 and 15 years of age, as set out in § 18.2-63;
3554 Carnal knowledge of certain minors, as set out in § 18.2-64.1;
3555 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender, as
3556 set out in § 18.2-64.2;
3557 Forcible sodomy, as set out in § 18.2-67.1;
3558 Object sexual penetration, as set out in § 18.2-67.2;
3559 Aggravated sexual battery, as set out in § 18.2-67.3;
3560 Sexual battery, as set out in § 18.2-67.4;
3561 Infected sexual battery, as set out in § 18.2-67.4.1;
3562 Sexual abuse of a child under 15 years of age, as set out in § 18.2-67.4.2;
3563 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual
3564 battery, as set out in § 18.2-67.5;

3565 *Third misdemeanor offense of sexual battery or certain other offenses, as set out in § 18.2-67.5:1;*
 3566 *or*
 3567 *Subsequent offenses of certain felony sexual assault, as set out in § 18.2-67.5:2 or 18.2-67.5:3;*
 3568 *2. Crimes against property, or an equivalent offense in another state:*
 3569 *Burning or destroying dwelling house, etc., as set out in § 18.2-77;*
 3570 *Burning or destroying meeting house, etc., as set out in § 18.2-79;*
 3571 *Burning or destroying any other building or structure, as set out in § 18.2-80;*
 3572 *Burning or destroying personal property, standing grain, etc., as set out in § 18.2-81;*
 3573 *Burning building or structure while in such building or structure with intent to commit a felony, as*
 3574 *set out in § 18.2-82;*
 3575 *Threats to bomb or damage buildings or means of transportation; false information as to danger to*
 3576 *such buildings, etc., as set out in § 18.2-83;*
 3577 *Causing, inciting, etc., commission of act proscribed by § 18.2-83, as set out in § 18.2-84;*
 3578 *Manufacture, possession, use, etc., of fire bombs or explosive materials or devices, as set out in*
 3579 *§ 18.2-85;*
 3580 *Setting fire to woods, fences, grass, etc., as set out in § 18.2-86;*
 3581 *Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized, as set out in*
 3582 *§ 18.2-87;*
 3583 *Setting off chemical bombs capable of producing smoke in certain public buildings, as set out in §*
 3584 *18.2-87.1;*
 3585 *Carelessly damaging property by fire, as set out in § 18.2-88;*
 3586 *Burglary, as set out in § 18.2-89;*
 3587 *Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson, as set out in §*
 3588 *18.2-90;*
 3589 *Entering dwelling house, etc., with intent to commit larceny, assault and battery, or other felony, as*
 3590 *set out in § 18.2-91;*
 3591 *Breaking and entering dwelling house with intent to commit other misdemeanor, as set out in §*
 3592 *18.2-92;*
 3593 *Entering bank, armed, with intent to commit larceny, as set out in § 18.2-93; or*
 3594 *Possession of burglarious tools, etc., as set out in § 18.2-94;*
 3595 *3. Felony offenses relating to the manufacturing, selling, giving, distributing, or possessing with*
 3596 *intent to manufacture, sell, give, or distribute drugs, or an equivalent offense in another state:*
 3597 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 3598 *distribute a controlled substance or an imitation controlled substance, as set out in § 18.2-248;*
 3599 *Transporting controlled substances into the Commonwealth, as set out in § 18.2-248.01;*
 3600 *Allowing a minor or incapacitated person to be present during manufacture or attempted*
 3601 *manufacture of methamphetamine, as set out in § 18.2-248.02;*
 3602 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 3603 *distribute methamphetamine, as set out in § 18.2-248.03;*
 3604 *Selling, giving, distributing, or possessing with intent to sell, give, or distribute marijuana, as set out*
 3605 *in § 18.2-248.1;*
 3606 *Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or*
 3607 *distribute illegal stimulants and steroids, as set out in § 18.2-248.5;*
 3608 *Distribution of flunitrazepam, as set out in § 18.2-251.2;*
 3609 *Distribution of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;*
 3610 *Distribution of certain drugs to persons under the age of 18, as set out in § 18.2-255;*
 3611 *Sale or manufacture of drugs on or near certain properties, as set out in § 18.2-255.2;*
 3612 *Conspiracy, as set out in § 18.2-256;*
 3613 *Attempts, as set out in § 18.2-257;*
 3614 *Permitting, keeping, establishing, or maintaining a property deemed a common nuisance, as set out*
 3615 *in § 18.2-258;*
 3616 *Maintaining a fortified drug house, as set out in § 18.2-258.02;*
 3617 *Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery,*
 3618 *as set out in § 18.2-258.1; or*
 3619 *Assisting individuals in unlawfully procuring prescription drugs, as set out in § 18.2-258.2;*
 3620 *4. Felony offenses relating to the possession of drugs, or an equivalent offense in another state, if*
 3621 *less than five years have elapsed between the date of conviction and the date of application for*
 3622 *employment or if the applicant continues to be on probation or parole or has failed to pay required*
 3623 *court costs:*
 3624 *Possession of controlled substances, as set out in § 18.2-250;*
 3625 *Possession of flunitrazepam, as set out in § 18.2-251.2;*

3626 Possession of gamma-butyrolactone; 1,4-butanediol, as set out in § 18.2-251.3;
3627 Conspiracy, as set out in § 18.2-256; or
3628 Attempts, as set out in § 18.2-257;
3629 5. Crimes involving health or safety, or an equivalent offense in another state:
3630 Shooting from vehicles so as to endanger persons, as set out in § 18.2-286.1;
3631 Possession or use of machine gun for crime of violence, as set out in § 18.2-289;
3632 Possession or use of machine gun for aggressive purpose, as set out in § 18.2-290;
3633 Possession or use of "sawed-off" shotgun or rifle in a crime of violence, as set out in subsection A of
3634 § 18.2-300; or
3635 Failing to secure medical attention for an injured child, as set out in § 18.2-314;
3636 6. Crimes involving morals and decency, or an equivalent offense in another state:
3637 Taking, detaining, etc., person for prostitution, etc., or consenting thereto, as set out in § 18.2-355;
3638 Crimes against nature, as set out in § 18.2-361, involving children;
3639 Incest, as set out in § 18.2-366;
3640 Abuse or neglect of incapacitated adults, as set out in § 18.2-369;
3641 Taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1;
3642 Penetration of the mouth of a child with lascivious intent, as set out in § 18.2-370.6;
3643 Causing or encouraging acts rendering children delinquent, as set out in § 18.2-371, when such acts
3644 result in a criminal homicide, as set out in subsection C of § 9.1-902, such that the person is required
3645 to register with the Department of State Police for inclusion in the Sex Offender and Crimes Against
3646 Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
3647 Abuse or neglect of children, as set out in § 18.2-371.1;
3648 Production, publication, sale, financing, etc., of child pornography, as set out in § 18.2-374.1;
3649 Possession, reproduction, distribution, or facilitation of child pornography, as set out in
3650 § 18.2-374.1.1;
3651 Use of communications systems to facilitate certain crimes involving children, as set out in §
3652 18.2-374.3;
3653 Employing or permitting a minor to assist in an act constituting an offense under Article 5 (§
3654 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; or
3655 Unlawful filming, videotaping, or photographing of another as set out in § 18.2-386.1 upon a third
3656 or subsequent conviction, when as a result of such third or subsequent conviction the individual is
3657 required to register with the Department of State Police for inclusion in the Sex Offender and Crimes
3658 Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;
3659 7. Crimes against the administration of justice, or an equivalent offense in another state:
3660 Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons, as set out in
3661 § 18.2-474.1; or
3662 Escape from jail, as set out in § 18.2-477; or
3663 8. Any felony offense by prisoners as set out in § 53.1-203.
3664 The provisions of this section also shall apply to residential programs established pursuant to
3665 § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that
3666 alleges the juvenile is delinquent or in need of services or supervision, and to local secure detention
3667 facilities provided, however, that the provisions of this section related to local secure detention facilities
3668 shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at
3669 such local secure detention facility, volunteers at such local secure detention facility on a regular basis
3670 and will be alone with a juvenile in the performance of his duties, or provides contractual services
3671 directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a
3672 juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local
3673 agency that regulates or operates the local secure detention facility shall process the criminal history
3674 record information regarding such applicant in accordance with this subsection and subsection B.
3675 B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for
3676 compensated employment or for volunteer or contractual service purposes persons who have been
3677 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have
3678 elapsed following the conviction, unless the person committed such offense in the scope of his
3679 employment, volunteer, or contractual services.
3680 If the applicant is denied employment or the opportunity to volunteer or provide services at a
3681 children's residential facility because of information appearing on his criminal history record, and the
3682 applicant disputes the information upon which the denial was based, upon written request of the
3683 applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history
3684 record from the Federal Bureau of Investigation. If the applicant has been permitted to assume duties
3685 that do not involve contact with children pending receipt of the report, the children's residential facility
3686 is not precluded from suspending the applicant from his position pending a final determination of the
3687 applicant's eligibility to have responsibility for the safety and well-being of children. The information

provided to the children's residential facility shall not be disseminated except as provided in this section.

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

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

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