

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 779

An Act to amend and reenact § 22.1-296.3 of the Code of Virginia, relating to private schools; sexual misconduct; employment assistance prohibited.

[S 832]

Approved April 7, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-296.3 of the Code of Virginia is amended and reenacted as follows:

§ 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 elementary or secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts employment, 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 any barrier crime as defined in § 19.2-392.02.

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private 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.

Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

C. Effective July 1, 2017, the governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child welfare agency regulated by the Department of Social Services pursuant to Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall accept evidence of a background check in accordance with § 63.2-1720.1 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

D. *The governing boards or administrators of private elementary and secondary schools that are accredited pursuant to § 22.1-19 shall adopt and implement policies prohibiting any individual who is a governing board member, administrator, employee, contractor, or agent of a private elementary or secondary school to assist a governing board member, administrator, employee, contractor, or agent of such private elementary or secondary school in obtaining a new job if such individual knows or has probable cause to believe that the individual seeking new employment engaged in sexual misconduct regarding a minor or student in violation of law.*

E. 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 schools or a private school accredited pursuant to § 22.1-19.

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.