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SENATE BILL NO. 578

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 2.2-1167, 2.2-3705.5, 9.1-914, 15.2-741, 15.2-914, 15.2-2292, 15.2-2824, 18.2-255.2, 18.2-370.2, 18.2-370.3, 19.2-389, as it is currently effective and as it shall become effective, 19.2-390, 19.2-392.02, 22.1-1, 22.1-19, 22.1-199.1, 22.1-296.3, 22.1-299.4, 46.2-341.9, 46.2-341.10, 46.2-341.18:3, 51.1-617, 54.1-3005, 54.1-3408, 58.1-439.4, 63.2-100, 63.2-207, 63.2-215, 63.2-501, 63.2-601.2, 63.2-603, 63.2-1509, 63.2-1515, 63.2-1700, 63.2-1701, 63.2-1702, 63.2-1706.1, 63.2-1708, 63.2-1720, as it shall become effective, 63.2-1721, as it shall become effective, 63.2-1722, as it is currently effective and as it shall become effective, 63.2-1723, and 63.2-1734 of the Code of Virginia; to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 14.1, containing articles numbered one through eight, consisting of sections numbered 22.1-289.02 through 22.1-289.056; and to repeal §§ 2.2-208.1, 63.2-1701.1, 63.2-1704, 63.2-1704.1, 63.2-1715, 63.2-1716, 63.2-1717, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, 63.2-1727, 63.2-1738, 63.2-1809 through 63.2-1813, and 63.2-1815 of the Code of Virginia, relating to a system for early childhood care and education; establishment; licensure.

Patrons—Howell, Bell, Boysko, Dunnavant, Ebbin, Hashmi, Lewis, Mason, McClellan, McPike, Morrissey and Spruill; Delegate: Willett

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1167, 2.2-3705.5, 9.1-914, 15.2-741, 15.2-914, 15.2-2292, 15.2-2824, 18.2-255.2, 18.2-370.2, 18.2-370.3, 19.2-389, as it is currently effective and as it shall become effective, 19.2-390, 19.2-392.02, 22.1-1, 22.1-19, 22.1-199.1, 22.1-296.3, 22.1-299.4, 46.2-341.9, 46.2-341.10, 46.2-341.18:3, 51.1-617, 54.1-3005, 54.1-3408, 58.1-439.4, 63.2-100, 63.2-207, 63.2-215, 63.2-501, 63.2-601.2, 63.2-603, 63.2-1509, 63.2-1515, 63.2-1700, 63.2-1701, 63.2-1702, 63.2-1706.1, 63.2-1708, 63.2-1720, as it shall become effective, 63.2-1721, as it shall become effective, 63.2-1722, as it is currently effective and as it shall become effective, 63.2-1723, and 63.2-1734 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 14.1, containing articles numbered one through eight, consisting of sections numbered 22.1-289.02 through 22.1-289.056, as follows:

§ 2.2-1167. Commonwealth immune from civil liability.

The Commonwealth and its officers, agents and employees shall be immune from civil liability for actions (i) arising from the establishment and implementation of asbestos inspection standards developed pursuant to § 2.2-1164 and (ii) undertaken pursuant to the provisions of this article, Chapter 5 *(§ 54.1-500 et seq.)* of Title 54.1, and §§ *22.1-289.052 and* 32.1-126.1 ~~and 63.2-1811~~.

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by

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§ 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; *other correspondence and information furnished in confidence to the Department of Education in connection with an active investigation of an applicant or licensee pursuant to Chapter 14.1 (§ 22.1-289.02 et seq.) of Title 22.1;* other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review Team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; or (v) during a review of any death conducted by the Maternal Mortality Review Team to the extent that such information is made confidential by 32.1-283.8.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.

§ 9.1-914. Automatic notification of registration to certain entities; electronic notification to requesting persons.

Any school~~,~~ *or* day-care service and child-minding service~~,~~*;* state-regulated or state-licensed child day center, child day program, ~~children's residential facility,~~ *or* family day home~~,~~ *as those terms are defined in § 22.1-289.02;* assisted living facility*, children's residential facility,* or foster home as *those terms are* defined in § 63.2-100~~,~~*;* nursing home or certified nursing facility as *those terms are* defined in § 32.1-123~~,~~*;* association of a common interest community as defined in § 54.1-2345~~,~~*;* and institution of higher education may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration or reregistration of any sex offender and if such entities do not have the capability of receiving such electronic notice, the entity may register with the State Police to receive written notification of sex offender registration or reregistration. Within three business days of receipt by the State Police of registration or reregistration, the State Police shall electronically or in writing notify an entity listed above that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The Virginia Council for Private Education shall annually provide the State Police, in an electronic format approved by the State Police, with the location of every private school in the Commonwealth that is accredited through one of the approved accrediting agencies of the Council, and an electronic mail address for each school if available, for purposes of receiving notice under this section.

Any person may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration or reregistration of any sex offender. Within three business days of receipt by the State Police of registration or reregistration, the State Police shall electronically notify a person who has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and maintaining the electronic notification system and notice by mail.

For the purposes of this section:

"Child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;

"Day-care service" means provision of supplementary care and protection during a part of the day for the minor child of another; and

"School" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of higher education.

§ 15.2-741. Regulation of child-care services and facilities in certain counties.

A. The board may by ordinance provide for the regulation and licensing of (i) persons who provide child-care services for remuneration and (ii) child-care facilities. "Child-care services" includes regular care, protection, or guidance during a part of a day to one or more children, not related by blood or marriage to the provider of services, while they are not attended by their parent, guardian, or person with legal custody. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services for remuneration. However, 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~~

22.1-289.031.

B. Such ordinance may be more restrictive or more extensive in scope than statutes or state regulations that may affect child-care services or child-care facilities, provided that such ordinance shall not impose additional requirements or restrictions on the construction or materials to be used in the erection, alteration, repair, or use of a residential dwelling.

§ 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~~ *22.1-289.031*.

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

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children or the physical or sexual abuse or rape of a child or any barrier crime defined in § 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

§ 15.2-2292. Zoning provisions for family day homes.

A. Zoning ordinances for all purposes shall consider a family day home as defined in § ~~63.2-100~~ *22.1-289.02,* serving one through four children, exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed upon such a home. Nothing in this section shall apply to any county or city which is subject to § 15.2-741 or 15.2-914.

B. A local governing body may by ordinance allow a zoning administrator to use an administrative process to issue zoning permits for a family day home, as defined in § ~~63.2-100~~ *22.1-289.02,* serving five through 12 children, exclusive of the provider's own children and any children who reside in the home. The ordinance may contain such standards as the local governing body deems appropriate and shall include a requirement that notification be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance and all other applicable local ordinances, the zoning administrator shall issue the permit sought. If the zoning administrator receives a written objection from a person so notified within 30 days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the ordinance, the zoning administrator shall consider such objection and may (i) issue or deny the permit sought or (ii) if required by the ordinance, refer the permit to the local governing body for consideration. The ordinance shall provide a process whereby an applicant for a family day home that is denied a permit through the administrative process may request that its application be considered after a hearing following public notice as provided in § 15.2-2204. Upon such hearing, the local governing body may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit. The provisions of this subsection shall not prohibit a local governing body from exercising its authority, if at all, under subdivision A 3 of § 15.2-2286.

§ 15.2-2824. Prohibitions on smoking generally; penalty for violation.

A. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator not intended for use by the general public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § ~~63.2-1701~~ *22.1-289.011* that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

B. No person shall smoke in any area or place specified in subsection A and any person who continues to smoke in such area or place after having been asked to refrain from smoking shall be subject to a civil penalty of not more than $25.

C. Civil penalties assessed under this section shall be paid into the Virginia Health Care Fund established under § 32.1-366.

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

A. It shall be unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, imitation controlled substance, or marijuana while:

1. Upon the property, including buildings and grounds, of any public or private elementary or secondary school, any institution of higher education, or any clearly marked licensed child day center as defined in § ~~63.2-100~~ *22.1-289.02*;

2. Upon public property or any property open to public use within 1,000 feet of the property described in subdivision 1;

3. On any school bus as defined in § 46.2-100;

4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, imitation controlled substance, or marijuana on the property described in subdivisions 1 through 6, regardless of where the person intended to sell, give or distribute the controlled substance, imitation controlled substance, or marijuana. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than $100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) or more than one-half ounce of marijuana shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance or marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance or marijuana to use or become addicted to or dependent upon such controlled substance or marijuana, he is guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-370.2. Sex offenses prohibiting proximity to children; penalty.

A. "Offense prohibiting proximity to children" means a violation or an attempt to commit a violation of (i) subsection A of § 18.2-47, clause (ii) or (iii) of § 18.2-48, subsection B of § 18.2-361, or subsection B of § 18.2-366, where the victim of one of the foregoing offenses was a minor, or (ii) *clause (iii) of* subsection A ~~(iii)~~ of § 18.2-61, ~~§§~~ *§* 18.2-63~~,~~ *or* 18.2-64.1, subdivision A 1 of § 18.2-67.1, subdivision A 1 of § 18.2-67.2, ~~or~~ subdivision A 1 or A 4 (a) of § 18.2-67.3, ~~or §§~~ *§* 18.2-370~~,~~ *or* 18.2-370.1, clause (ii) of § 18.2-371, ~~§§~~ *or §* 18.2-374.1, 18.2-374.1:1 or ~~§~~ 18.2-379. As of July 1, 2006, "offense prohibiting proximity to children" includes a violation of § 18.2-472.1~~,~~ when the offense requiring registration was one of the foregoing offenses.

B. Every adult who is convicted of an offense prohibiting proximity to children when the offense

occurred on or after July 1, 2000, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary or high school. In addition, every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2006, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a child day program as defined in § ~~63.2-100~~ *22.1-289.02*.

C. Every adult who is convicted of an offense prohibiting proximity to children, when the offense occurred on or after July 1, 2008, shall as part of his sentence be forever prohibited from going, for the purpose of having any contact whatsoever with children who are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or should know is a playground, athletic field or facility, or gymnasium.

D. Any person convicted of an offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, similar to any offense set forth in subsection A shall be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary, or high school or any place he knows or has reason to know is a child day program as defined in § ~~63.2-100~~ *22.1-289.02*. In addition, he shall be forever prohibited from going, for the purpose of having any contact whatsoever with children who are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or has reason to know is a playground, athletic field or facility, or gymnasium.

E. A violation of this section is punishable as a Class 6 felony.

§ 18.2-370.3. Sex offenses prohibiting residing in proximity to children; penalty.

A. Every adult who is convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, (iii) subdivision A 1 of § 18.2-67.2, or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, shall be forever prohibited from residing within 500 feet of the premises of any place he knows or has reason to know is a child day center as defined in § ~~63.2-100~~ *22.1-289.02*, or a primary, secondary, or high school. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of (a) subsection A of § 18.2-47 or § 18.2-48~~,~~*;* (b) § 18.2-89, 18.2-90, or 18.2-91~~,~~*;* (c) § 18.2-51.2~~,~~*;* or (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

B. An adult who is convicted of an offense as specified in subsection A and has established a lawful residence shall not be in violation of this section if a child day center or a primary, secondary, or high school is established within 500 feet of his residence subsequent to his conviction.

C. Every adult who is convicted of an offense occurring on or after July 1, 2008, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, (iii) subdivision A 1 of § 18.2-67.2, or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, shall be forever prohibited from residing within 500 feet of the boundary line of any place he knows is a public park when such park (a) is owned and operated by a county, city, or town, (b) shares a boundary line with a primary, secondary, or high school, and (c) is regularly used for school activities. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of (1) subsection A of § 18.2-47 or § 18.2-48; (2) § 18.2-89, 18.2-90, or 18.2-91; (3) § 18.2-51.2; or (4) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.

D. An adult who is convicted of an offense as specified in subsection C and has established a lawful residence shall not be in violation of this section if a public park that (i) is owned and operated by a county, city, or town, (ii) shares a boundary line with a primary, secondary, or high school, and (iii) is regularly used for school activities, is established within 500 feet of his residence subsequent to his conviction.

E. The prohibitions in this section predicated upon an offense similar to any offense set forth in this section under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, shall apply only to residences established on and after July 1, 2017.

§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for

purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

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

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

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

Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, ~~and other adults living in family day homes or homes approved by family day systems,~~ and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720~~, 63.2-1720.1,~~ *and* 63.2-1721~~, and 63.2-1721.1~~, 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 assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority 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 elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance

services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

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

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

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

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

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

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

43. The Department of ~~Social Services and directors of local departments of social services~~ *Education or its contracting agents* 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~~ *Education or its contracting agents* for the provision of child care services for which child care subsidy payments may

be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; ~~and~~

45. *Administrators and board presidents of and applicants for licensure or registration as an early childhood care and education entity, as defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, 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 Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and*

46. 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 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 § 63.2-1720.

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 set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

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

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

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

member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, ~~and other adults living in family day homes or homes approved by family day systems,~~ and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, ~~63.2-1720.1~~, *and* 63.2-1721~~, and 63.2-1721.1~~, 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 assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority 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 elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider,

or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

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

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

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

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

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

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

43. The Department of ~~Social Services and directors of local departments of social services~~ *Education or its contracting agents* 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~~ *Education or its*

contracting agents for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; ~~and~~

46. *Administrators and board presidents of and applicants for licensure or registration as an early childhood care and education entity, as defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, 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 Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and*

47. 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 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 § 63.2-1720.

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 set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

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.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, for each charge when any person is arrested on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1;

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or

e. Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, *22.1-289.041,* 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, *or* 63.2-1509~~, or 63.2-1727~~.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a capias for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

4. For any person served with a show cause for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is found to be in violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

5. If the accused is in custody when an indictment or presentment is found or made, or information is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the time of first appearance for each indictment, presentment, or information for which a report is required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each offense.

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B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or capias may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-release supervision or probation, the law-enforcement agency that received the written statement shall enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

C. For offenses not charged on a summons in accordance with § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action that may have resulted from an indictment, presentment or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records

received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

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

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex

Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

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

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

"Department" means the Department of State Police.

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

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

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

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt pursuant to subdivision A 7 of § ~~63.2-1715~~ *22.1-289.030*.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and

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

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

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

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

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

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

H. (Expires July 1, 2020) Notwithstanding any provisions in this section to the contrary, a spouse of a birth parent or parent by adoption who is not the birth parent of a child and has filed a petition for adoption of such child in circuit court may request the Department of State Police to conduct a national criminal background check on such prospective adoptive parent at his cost for purposes of § 63.2-1242. Such background checks shall otherwise be conducted in accordance with the provisions of this section.

§ 22.1-1. Definitions.

As used in this title, unless the context requires ~~otherwise or it is otherwise specifically provided~~ *a different meaning*:

"Board" or "State Board" means the Board of Education.

"Department" means the Department of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" include elementary, middle, and high school grades.

"Governing body" or "local governing body" means the board of supervisors of a county, council of a city, or council of a town, responsible for appropriating funds for such locality, as the context may require.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board that governs a school division.

"Superintendent" means the Superintendent of Public Instruction.

§ 22.1-19. Accreditation of elementary, middle, and high schools; nursery schools; recognition of certain organizations; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its discretion may recommend provisions for standards for private nursery schools. Any such accreditation shall be at the request of the private school only.

For the purposes of facilitating the transfer of academic credits for students who have attended private schools and are enrolling in public schools, and to meet the requirements of § ~~63.2-1717~~ *22.1-289.032*, the Board of Education shall authorize, in a manner it deems appropriate, the Virginia Council for Private Education to accredit private nursery, preschool, elementary, and secondary schools.

§ 22.1-199.1. Programs designed to promote educational opportunities.

A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil/teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class sizes for grades K through three in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

With such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K through three in schools with high or moderate concentrations of at-risk students, consistent with the provisions provided in the appropriation act.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to

pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil/teacher ratio.

In developing each proposed biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. These ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Therefore, the Board of Education shall strive to incorporate technological studies within the teaching of all disciplines. Further, the General Assembly notes that educational technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established.

With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act.

Funds for improving the quality and capacity of educational technology shall also be provided as set forth in the appropriation act, including, but not limited to, (i) funds for providing a technology resource assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998, and (ii) funds to maintain the currency of career and technical education programs. Any local school board accepting funds to hire technology resource assistants or maintain currency of career and technical education programs shall commit to providing the required matching funds, based on the composite index of local ability to pay.

Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs, including career and technical education programs. The grants shall be prioritized as follows:

1. In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used to provide other educational technologies identified in the relevant division's approved technology plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan programs, career and technical education laboratories or other electronic techniques designed to enhance public education and to facilitate teacher training in and implementation of effective instructional technology. The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of electronic reference materials for use in the statewide automated reference system.

2. In the 1996 biennium and thereafter, the first priority for funding shall be consistent with those components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions, including professional development for personnel delivering career and technical education at all levels and positions; and (iii) assisting school divisions in developing integrated voice-, video-, and data-connectivity to local, national and international resources.

This funding may be used to implement a local school division's long-range technology plan, at the discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year technology plan and has been approved by the Superintendent of Public Instruction.

3. The Departments of Education, Information Technology, and General Services shall coordinate master contracts for the purchase by local school boards of the aforementioned educational technologies and reference materials.

4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be appropriated for this purpose, implemented to replace obsolete educational hardware and software. As provided in subsection D of § 22.1-129, school boards may donate obsolete educational technology hardware and software which are being replaced. Any such donations shall be offered to other school divisions and to preschool programs in the Commonwealth, or to public school students as provided in guidelines to be promulgated by the Board of Education. Such guidelines shall include criteria for determining student eligibility and need; a reporting system for the compilation of information concerning the number and socioeconomic characteristics of recipient students; and notification of parents of the availability of such donations of obsolete educational hardware and software.

5. In fiscal year 2000, the Board of Education shall, with such funds as are appropriated for this purpose, contract for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. Such interactive educational software and other instructional materials may be used in media centers, computer laboratories, libraries, after-school or before-school programs or remedial programs by teachers and other instructional personnel or provided to parents and students to be used in the home. This interactive educational software and other instructional materials shall only be used as supplemental tools for instruction, remediation, and acceleration of the learning required by the K through 12 Standards of Learning objectives.

Consistent with school board policies designed to improve school-community communications and guidelines for providing instructional assistance in the home, each school division shall strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000.

C. ~~The General Assembly finds that effective prevention programs designed to assist children at risk of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the twenty-first century; to this end, the following program is hereby established. With such funds as are appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten.~~

~~The grants shall be used to provide at least half-day services for the length of the school year for at-risk four-year-old children who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten. The services shall include quality preschool education, health services, social services, parental involvement including activities to promote family literacy, and transportation.~~

~~The Department of Education, in cooperation with such other state agencies that may coordinate child day care and early childhood programs, shall establish guidelines for quality preschool education and criteria for the service components, consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.~~

~~The guidelines for quality preschool education and criteria for preschool education services may be differentiated according to the agency providing the services in order to comply with various relevant federal or state requirements. However, the guidelines for quality preschool education and the criteria for preschool education services shall require when such services are being provided by the public schools of the Commonwealth, and may require for other service providers, that (i) one teacher shall be employed for any class of nine students or less, (ii) if the average daily membership in any class exceeds nine students but does not exceed 18, a full-time teacher's aide shall be assigned to the class, and (iii) the maximum class size shall be 18 students.~~

~~School divisions may apply for and be granted waivers from these guidelines by the Department of Education.~~

~~During the 1995-1996 fiscal year, the Board of Education shall, with such funds as are appropriated for this purpose, distribute grants, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for 30 percent of the unserved at-risk four-year-olds in the Commonwealth pursuant to the funding provided in the appropriation act.~~

~~During the 1996-1997 fiscal year and thereafter, grants shall be distributed, with such funds as are appropriated for this purpose, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are not eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding services for 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children in each locality provided funding in the appropriation act.~~

~~Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may use federal funds or local funds for this expansion or may seek funding through this grant program for such purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent allocation, to expand services to at-risk four-year-olds beyond the 60 percent goal.~~

~~In order for a locality to qualify for these grants, the local governing body shall commit to providing the required matching funds, based on the composite index of local ability to pay. Localities may use, for the purposes of meeting the local match, local or other nonstate expenditures for existing qualifying programs and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program shall be used to supplement, not supplant, any local funds currently provided for preschool programs within the locality.~~

~~D.~~ The General Assembly finds that local autonomy in making decisions on local educational needs and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public schools only when coupled with sufficient state funding; to this end, the following block grant program is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any expenses of participating students at institutions of higher education; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

~~E.~~ *D.* In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as may be appropriated for this purpose, each school board may employ additional classroom teachers, remedial teachers, and reading specialists for each of its elementary schools over the requirements of the Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers, and reading specialists shall be apportioned as provided in the appropriation act.

~~F.~~ *E.* Pursuant to a turnaround specialist program administered by the Department of Education, local school boards may enter into agreements with individuals to be employed as turnaround specialists to address those conditions at the school that may impede educational progress and effectiveness and academic success. Local school boards may offer such turnaround specialists or other administrative personnel incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

~~G.~~ *F.* The General Assembly finds that certain schools have particular difficulty hiring teachers for certain subject areas and that the need for such teachers in these schools is particularly strong. Accordingly in an effort to attract and retain high quality teachers, local school boards may offer instructional personnel serving in such schools as a member of a middle school teacher corps administered by the Department of Education incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight where there is a critical need, as determined by the Department of Education. The contract between such persons and the relevant local school board shall specify that the contract is for service in the middle school teacher corps.

CHAPTER 14.1.

EARLY CHILDHOOD CARE AND EDUCATION.

Article 1.

General Provisions.

§ 22.1-289.02. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Early childhood care and education entity" means a child day center, family day home, or family day system serving children under the age of five.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family

day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Head Start provider" means a public or private, nonprofit or for-profit organization or agency, including any community-based organization, as such term is defined in 20 U.S.C. § 7801, to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

"Publicly funded provider" means any (i) educational program provided by a school division or local government to children between birth and age five or (ii) child day program that receives state or federal funds in support of its operations that serves three or more unrelated children. "Publicly funded provider" does not include any program for which the sole source of public funding is the federal Child and Adult Care Food Program (CACFP) administered by the U.S. Department of Agriculture Food and Nutrition Service.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Superintendent.

§ 22.1-289.03. Early childhood care and education system; establishment.

A. The Board shall establish a statewide unified public-private system for early childhood care and education in the Commonwealth to ensure that every child has the opportunity to enter kindergarten healthy and ready to learn. Such system shall be administered by the Board, the Superintendent, and the Department and shall be formed, implemented, and sustained through a structure that engages and leverages both state-level authority and regional-level public-private partnership assets.

B. It is the intent of the General Assembly that the system established pursuant to subsection A shall (i) provide families with coordinated access for referral to early childhood education programs, (ii) provide families with easy-to-understand information about the quality of publicly funded early childhood care and education programs, (iii) establish expectations for the continuous improvement of early childhood care and education programs, and (iv) establish shared expectations for early childhood care and education programs among the Department of Education, the Department of Social Services, local school divisions, and state and regional stakeholders.

C. The system established pursuant to subsection A shall consist of a combination of programs offered through (i) the Virginia Preschool Initiative, pursuant to § 22.1-289.09; (ii) licensed programs, pursuant to Article 3 (§ 22.1-289.010 et seq.); and (iii) unlicensed programs, pursuant to Article 4 (§ 22.1-289.030 et seq.).

§ 22.1-289.04. Early childhood care and education advisory committee.

The Board shall establish an early childhood care and education advisory committee to advise the Board on programs, systems, and regulations established pursuant to this chapter. The advisory committee shall include the following members, who shall represent geographically diverse areas: (i) two representatives of publicly funded licensed providers, including at least one for-profit provider; (ii) one representative of an early childhood care and education entity that is not a publicly funded provider; (iii) one representative of an early childhood care and education entity that is exempt from licensure pursuant to § 22.1-289.031; (iv) two representatives of Head Start providers, one of which shall be operated by a local school division, and one of which shall not be operated by a local school division; (v) two representatives from local school divisions or local school boards operating early childhood programs other than Head Start providers; (vi) two representatives of nonprofit advocacy organizations in the Commonwealth that focus on early childhood care and education; (vii) one representative of a family day home that is a publicly funded provider; (viii) two professionals or faculty members from an institution of higher education in the Commonwealth who have child development or early childhood education expertise; (ix) one representative from the Virginia chapter of the American Academy of Pediatrics; (x) one representative from an advocacy or service organization that focuses on serving children with disabilities; (xi) one representative from a business in the Commonwealth; and (xii) one parent of a child currently enrolled in a preschool program offered by a publicly funded provider. The Commissioner of Social Services or his designee, the Secretary of Education or his designee, the Secretary of Health and Human Resources or his designee, the Superintendent of Public Instruction or his designee, the Commissioner of the Department of Health or his designee, the

Commissioner of the Department of Behavioral Health and Development Services or his designee, and the Director of the Head Start Collaboration Office shall serve ex officio without voting privileges. The Board shall establish bylaws for such advisory committee that include term length and limits for members.

§ 22.1-289.05. Quality rating and improvement system; establishment.

A. The Board shall establish a uniform quality rating and improvement system designed to provide parents and families with information about the quality and availability of publicly funded providers. Such system shall include:

1. Service provision and performance targets for children from birth to age five that align with standards for kindergarten readiness and early elementary grades;

2. Consistent quality standards;

3. Outcome-based measurements; and

4. Incentives to encourage participation and improvement.

B. All publicly funded providers shall be required to participate in the quality rating and improvement system established pursuant to subsection A. All other child day programs may participate in such system. Any participation in such system shall comply with all applicable federal laws and regulations, including the federal Head Start Act (42 U.S.C. § 9801 et seq.), as amended, and associated regulations.

C. The Board shall establish consequences for publicly funded providers that fail to participate in the quality rating and improvement system established pursuant to subsection A or persistently fail to meet minimal quality standards.

§ 22.1-289.06. Confidential records and information; penalty.

A. The records, information, and statistical registries of the Department and of all child-welfare agencies concerning services to or on behalf of individuals shall be confidential information, provided that the Superintendent, the Board, and their agents or designees shall have access to such records, information, and statistical registries, and that such records, information, and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.

It shall be unlawful for any officer, agent, or employee of any child-welfare agency; for the Superintendent, the State Board, or their agents or employees; for any person who has held any such position; and for any other person to whom any such record or information is disclosed to disclose, directly or indirectly, any such confidential record or information, except as herein provided or pursuant to § 63.2-105. Every violation of this section shall constitute a Class 1 misdemeanor.

B. If a request for a record or information concerning applicants for and recipients of services provided in this chapter is made to the Department by a person who does not have a legitimate interest, the Superintendent shall not provide the record or information unless permitted by state or federal law or regulation.

§ 22.1-289.07. Information related to shaken baby syndrome.

The Department shall make information about shaken baby syndrome, its effects, and resources for help and support for caretakers in a printable format, and information about how to acquire information about shaken baby syndrome and its effects in an audiovisual format, available to the public on its website. Such information shall be provided to every child day program required to be licensed by the Department at the time of initial licensure and upon request.

§ 22.1-289.08. Board to investigate child day programs at direction of Governor.

Whenever the Governor considers it proper or necessary to investigate the management of any child day program licensed by or required to be inspected by the Board under the provisions of this chapter, he may direct the Board, or any committee or agent thereof, to make the investigation. The Board, committee, or agent designated by the Governor shall have power to administer oaths and to summon officers, employees, or other persons to attend as witnesses and to enforce their attendance and to compel them to produce documents and give evidence.

Article 2.

Virginia Preschool Initiative.

§ 22.1-289.09. Programs designed to promote educational opportunities.

A. The General Assembly finds that effective prevention programs designed to assist children at risk of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for ensuring that Virginia's children will reach adulthood with the skills necessary to succeed; to this end, the following program is hereby established. With such funds as are appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk three-year-olds and four-year-olds who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten.

B. Grants shall be used to provide at least half-day services for the length of the school year for

at-risk three-year-old and four-year-old children who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten. The services shall include quality preschool education; health services, including nutrition access programs; social services; parental involvement, including activities to promote family literacy; and transportation.

C. The Department of Education shall establish guidelines for quality preschool education and criteria for the service components, consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.

D. The guidelines for quality preschool education and criteria for preschool education services may be differentiated according to the agency providing the services in order to comply with various relevant federal or state requirements.

1. Any classroom that exceeds benchmarks set by the Board shall be staffed as follows: (i) at least one teacher shall be provided for any classroom with 10 students or fewer students; (ii) if the average daily membership in any classroom exceeds 10 students but does not exceed 20 students, at least one full-time teacher's aide shall be assigned to the classroom; and (iii) the maximum classroom size shall be 20 students.

2. Any classroom that does not exceed benchmarks set by the Board shall be staffed as follows: (i) at least one teacher shall be provided for any classroom with nine or fewer students; (ii) if the average daily membership in any classroom exceeds nine students but does not exceed 18 students, a full-time teacher's aide shall be assigned to such classroom; and (iii) the maximum classroom size shall be 18 students.

E. School divisions may apply for and be granted waivers from these guidelines by the Department of Education. Grants shall be distributed, with such funds as are appropriated for this purpose, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are not eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding services for 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children in each locality provided funding in the appropriation act.

F. Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may use federal funds or local funds for this expansion or may seek funding through this grant program for such purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent allocation, to expand services to at-risk four-year-olds beyond the 60 percent goal.

G. In order for a locality to qualify for these grants, the local governing body shall commit to providing the required matching funds, based on the composite index of local ability to pay. Localities may use, for the purposes of meeting the local match, local or other nonstate expenditures for existing qualifying programs and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program shall be used to supplement, not supplant, any local funds currently provided for preschool programs within the locality.

Article 3.

Licensure.

§ 22.1-289.010. Application fees; regulations and schedules; use of fees; certain facilities, centers and agencies exempt.

The Board is authorized to adopt regulations and schedules for fees to be charged for processing applications for licenses to operate early childhood care and education entities. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity of such facilities, centers, and agencies. Fees shall be used for the development and delivery of training for operators and staff of facilities, centers, and agencies. Fees shall be expended for this purpose within two fiscal years following the fiscal year in which they are collected. These fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

The Board shall develop training programs for operators and staffs of licensed child day programs. Such programs shall include formal and informal training offered by institutions of higher education, state and national associations representing child care professionals, local and regional early childhood educational organizations, state agencies and other trainers designated by the Board, and licensed child care providers. Training provided to operators and staffs of licensed child day programs shall include training and information regarding shaken baby syndrome, its effects, and resources for help and support for caretakers. To the maximum extent possible, the Board shall ensure that all provider interests are represented and that no single approach to training shall be given preference.

§ 22.1-289.011. Licenses required; issuance, expiration, and renewal; maximum number of residents, participants or children; posting of licenses.

A. As used in this section, "person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution,

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authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains an early childhood care and education entity.

B. Every person who constitutes, or who operates or maintains, an early childhood care and education entity shall obtain the appropriate license from the Superintendent, which may be renewed. The Superintendent, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Superintendent, in such form as he may prescribe. It shall contain the name and address of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services to be employed, together with other pertinent information as the Superintendent may require.

C. The licenses shall be issued on forms prescribed by the Superintendent. Any two or more licenses may be issued for concurrent operation of more than one early childhood care and education entity, but each license shall be issued upon a separate form. Each license for an early childhood care and education entity and renewals thereof may be issued for periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.

D. The Superintendent may extend or shorten the duration of licensure periods for an early childhood care and education entity whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

E. Each license shall indicate the maximum number of persons who may be cared for in the early childhood care and education entity for which it is issued.

F. The license and any other documents required by the Superintendent shall be posted in a conspicuous place on the licensed premises.

G. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

§ 22.1-289.012. Local government to report business licenses issued to child day centers and family day homes.

The commissioner of the revenue or other local business license official shall report to the Department on a semiannual basis the name, address, and contact information of any child day center or family day home to which a business license was issued.

§ 22.1-289.013. Investigation on receipt of application.

Upon receipt of the application, the Superintendent shall cause an investigation to be made of the activities, services, and facilities of the applicant and of his character and reputation or, if the applicant is an association, partnership, limited liability company, or corporation, the character and reputation of its officers and agents, and upon receipt of the initial application, an investigation of the applicant's financial responsibility. The financial records of an applicant shall not be subject to inspection if the applicant submits an operating budget and at least one credit reference. The character and reputation investigation upon application shall include background checks pursuant to § 22.1-289.036. Records that contain confidential proprietary information furnished to the Department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5.

§ 22.1-289.014. Variances.

The Superintendent may grant a variance to a regulation when the Superintendent determines that (i) a licensee or applicant for licensure as an early childhood care and education entity has demonstrated that the implementation of a regulation would impose a substantial financial or programmatic hardship and (ii) the variance would not adversely affect the safety and well-being of children in care. The Superintendent shall review each allowable variance at least annually. At a minimum, this review shall address the impact of the allowable variance on persons in care, adherence by the licensee to any conditions attached, and the continuing need for the allowable variance.

§ 22.1-289.015. 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 five 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 Superintendent, 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 Superintendent; and

4. Documentation that the background check requirements for registered early childhood care and

education entities in Article 5 (§ 22.1-289.034 et seq.) 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 Superintendent 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 Superintendent 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 Superintendent to be in noncompliance with the regulations for voluntarily registered family day homes, the Superintendent 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 Superintendent, and after having determined that the home has satisfied the requirements of the regulations for voluntarily registered family day homes, the Superintendent shall issue a certificate of registration to the family day home.

D. The Superintendent 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 Superintendent shall implement the provisions of this section. For the purposes of this subsection, "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 provided in subsection A; and

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

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

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

§ 22.1-289.016. Unlicensed and unregistered family day homes; notice to parents.

Every unlicensed, unregistered family day home shall provide written notice to the parents of every child receiving care, at the time the family day home begins providing care for the child, stating that the family day home is not regulated by the Department and referring parents to a website maintained by the Department for additional information regarding licensed, registered, and unlicensed, unregistered family day homes. The provisions of this section shall not apply to an unlicensed, unregistered family day home in which all of the children receiving care are related to the provider by blood or marriage.

§ 22.1-289.017. Compliance with Uniform Statewide Building Code.

Buildings licensed as early childhood care and education entities shall be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform Statewide Building Code.

§ 22.1-289.018. Inspections and interviews.

A. Applicants for licensure and licensees shall at all times afford the Superintendent reasonable opportunity to inspect all of their facilities, books and records, and to interview their agents and

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employees and any person living or participating in such facilities, or under their custody, control, direction, or supervision. Interviews conducted pursuant to this section with persons living or participating in a facility operated by or under the custody, control, direction, or supervision of an applicant for licensure or a licensee shall be (i) authorized by the person to be interviewed or his legally authorized representative and (ii) limited to discussion of issues related to the applicant's or licensee's compliance with applicable laws and regulations, including ascertaining if assessments and reassessments of residents' cognitive and physical needs are performed as required under regulations of the Board.

B. All licensed early childhood care and education entities shall be inspected not less than twice annually, and one of those inspections shall be unannounced.

C. The activities, services, and facilities of each applicant for renewal of his license as an early childhood care and education entity shall be subject to an inspection or examination by the Superintendent to determine if he is in compliance with current regulations of the Board.

D. The Superintendent may authorize such other announced or unannounced inspections as the Superintendent considers appropriate.

§ 22.1-289.019. Inspections of early childhood care and education entities; prioritization.

The Superintendent shall prioritize inspections of early childhood care and education entities in the following order: (i) inspections conducted in response to a complaint involving a licensed, registered, license-exempt, or unlicensed early childhood care and education entity; (ii) inspections of licensed or registered early childhood care and education entities that are not conducted in response to a complaint; (iii) inspections of license-exempt or unlicensed early childhood care and education entities that have entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant, other than inspections conducted in response to a complaint; and (iv) inspections of license-exempt and unlicensed early childhood care and education entities that are not conducted in response to a complaint.

§ 22.1-289.020. Issuance or refusal of license; notification; provisional and conditional licenses.

Upon completion of his investigation, the Superintendent shall issue an appropriate license to the applicant if (i) the applicant has made adequate provision for such activities, services, and facilities as are reasonably conducive to the welfare of the children over whom he may have control; (ii) at the time of initial application, the applicant has submitted an operating budget and at least one credit reference; (iii) he is, or the officers and agents of the applicant if it is an association, partnership, limited liability company, or corporation are, of good character and reputation; and (iv) the applicant and agents comply with the provisions of this chapter. Otherwise, the license shall be denied. Immediately upon taking final action, the Superintendent shall notify the applicant of such action.

Upon completion of the investigation for the renewal of a license, the Superintendent may issue a provisional license to any applicant if the applicant is temporarily unable to comply with all of the licensure requirements. The provisional license may be renewed, but the issuance of a provisional license and any renewals thereof shall be for no longer a period than six successive months. A copy of the provisional license shall be prominently displayed by the provider at each public entrance of the subject facility and shall be printed in a clear and legible size and style. In addition, the facility shall be required to prominently display next to the posted provisional license a notice that a description of specific violations of licensing standards to be corrected and the deadline for completion of such corrections is available for inspection at the facility and on the facility's website, if applicable.

At the discretion of the Superintendent, a conditional license may be issued to an applicant to operate a new facility in order to permit the applicant to demonstrate compliance with licensure requirements. Such conditional license may be renewed, but the issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months.

§ 22.1-289.021. Records and reports.

Every licensed or registered early childhood care and education entity or family day home approved by a family day system shall keep such records and make such reports to the Superintendent as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Superintendent.

§ 22.1-289.022. Enforcement and sanctions; early childhood care and education entities; revocation and denial.

A. The Superintendent may revoke or deny the renewal of the license of any early childhood care and education entity that violates any provision of this chapter or fails to comply with the limitations and standards set forth in its license.

B. Pursuant to the procedures set forth in subsection C, and in addition to the authority for other disciplinary actions provided in this title, the Superintendent may issue a notice of summary suspension of the license of any early childhood care and education entity, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the early childhood care and education entity that pose an immediate and substantial threat to the health, safety, and welfare of the

children receiving care, and the Superintendent believes the operation of the early childhood care and education entity should be suspended during the pendency of such proceeding.

C. A notice of summary suspension issued by the Superintendent to an early childhood care and education entity shall set forth (i) the summary suspension procedures; (ii) hearing and appeal rights as provided in this subsection; (iii) facts and evidence that formed the basis for the summary suspension; and (iv) the time, date, and location of a hearing to determine whether the summary suspension is appropriate. Such notice shall be served on the early childhood care and education entity or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the early childhood care and education entity.

The summary suspension hearing shall be presided over by a hearing officer selected by the Superintendent from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be held as soon as practicable, but in no event later than 15 business days following service of the notice of summary suspension; however, the hearing officer may grant a written request for a continuance, not to exceed an additional 10 business days, for good cause shown. Within 10 business days after such hearing, the hearing officer shall provide to the Superintendent written findings and conclusions, together with a recommendation as to whether the license should be summarily suspended.

Within 10 business days of the receipt of the hearing officer's findings, conclusions, and recommendation, the Superintendent may issue a final order of summary suspension or an order that such summary suspension is not warranted by the facts and circumstances presented. The Superintendent shall adopt the hearing officer's recommended decision unless to do so would be an error of law or Department policy. In the event that the Superintendent rejects the hearing officer's findings, conclusions, or recommendation, the Superintendent shall state with particularity the basis for rejection. In issuing a final order of summary suspension, the Superintendent may choose to suspend the license of the early childhood care and education entity or to suspend only certain authority of the early childhood care and education entity to operate, including the authority to provide certain services or perform certain functions that the Superintendent determines should be restricted or modified in order to protect the health, safety, or welfare of the children receiving care. A final order of summary suspension shall include notice that the licensee may appeal the Superintendent's decision to the appropriate circuit court no later than 10 days following service of the order. The sole issue before the court shall be whether the Superintendent had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

A copy of any final order of summary suspension shall be prominently displayed by the early childhood care and education entity at each public entrance of the facility, or in lieu thereof, the early childhood care and education entity may display a written statement summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface, and identifying the location within the facility where the final order of summary suspension may be reviewed.

The willful and material failure to comply with the final order of summary suspension constitutes a violation of subdivision 3 of § 63.2-1712.

The provisions of this subsection shall not apply to any child welfare agency operated by an agency of the Commonwealth, which shall instead be governed by the provisions of § 63.2-1710.1.

§ 22.1-289.023. Enforcement and sanctions; special orders; civil penalties.

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Superintendent may issue a special order (i) for violation of any of the provisions of this chapter, § 54.1-3408, or any regulation adopted under any provision of this chapter which violation adversely affects, or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for permitting, aiding, or abetting the commission of any illegal act in an early childhood care and education entity. Notice of the Superintendent's intent to take any of the actions enumerated in subdivisions B 1 through 6 shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. Actions set forth in subsection B may be appealed by (a) an early childhood care and education entity operated by an agency of the Commonwealth or (b) any other early childhood care and education entity in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The Superintendent shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Superintendent may take the following actions regarding early childhood care and education entities through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of children are at risk;

2. Reduce licensed capacity or prohibit new admissions when the Superintendent concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Superintendent concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties of not more than $500 per inspection upon finding that the early childhood care and education entity is substantially out of compliance with the terms of its license and the health and safety of children are at risk; however, no civil penalty shall be imposed pursuant to this subdivision on any early childhood care and education entity operated by an agency of the Commonwealth;

5. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

6. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

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

§ 22.1-289.024. Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for an early childhood care and education entity operated by an agency of the Commonwealth, the provisions of § 22.1-289.025 shall apply. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for any early childhood care and education entity other than an early childhood care and education entity operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Superintendent's intent to refuse to issue or renew, or revoke a license shall be received in writing from the early childhood care and education entity operator within 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the Virginia Supreme Court.

B. In every appeal to a court of record, the Superintendent shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license for an early childhood care and education entity has been refused by the Superintendent, the applicant shall not thereafter for a period of six months apply again for such license unless the Superintendent in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

§ 22.1-289.025. Right to appeal notice of intent; early childhood care and education entities operated by agencies of the Commonwealth.

An early childhood care and education entity operated by an agency of the Commonwealth shall have the right to appeal any notice of intent as follows:

1. Within 30 days after receiving a notice of intent to impose a sanction, the licensee shall request in writing that the Superintendent review the intended agency action and may submit, together with such request, relevant information, documentation, or other pertinent data supporting its appeal. The Superintendent shall issue a decision within 60 days after receiving the request and shall have the authority to uphold the sanction or take whatever action he deems appropriate to resolve the controversy.

2. If the early childhood care and education entity disputes the Superintendent's decision, the licensee shall request, within 30 days of receiving the Superintendent's decision, that the Superintendent refer the matter to the Secretary of Education. The Secretary shall issue a decision within 60 days of receiving the request for review. The Secretary's decision shall be final and shall not be subject to review.

§ 22.1-289.026. Injunction against operation without license.

Any circuit court having jurisdiction in the county or city where the principal office of any early childhood care and education entity is located shall, at the suit of the Superintendent, have jurisdiction to enjoin its operation without a license required by this chapter.

§ 22.1-289.027. Offenses; penalty.

Any person, and each officer and each member of the governing board of any association or corporation that operates an early childhood care and education entity, shall be guilty of a Class 1 misdemeanor if he:

1. Interferes with any representative of the Superintendent in the discharge of his duties under this

chapter;

2. Makes to the Superintendent or any representative of the Superintendent any report or statement, with respect to the operation of any early childhood care and education entity, that is known by such person to be false or untrue;

3. Operates or engages in the conduct of an early childhood care and education entity without first obtaining a license as required by this chapter or after such license has been revoked or has expired and not been renewed. No violation shall occur if the agency has applied to the Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision shall constitute a separate offense; or

4. Operates or engages in the conduct of an early childhood care and education entity serving more persons than the maximum stipulated in the license.

§ 22.1-289.028. Misleading advertising prohibited.

No early childhood care and education entity shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in this Commonwealth, in a newspaper or other publication; in the form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet, or letter; or via electronic mail, website, automatic mailing list services (listservs), newsgroups, facsimile, chat rooms; or in any other way an advertisement of any sort regarding services or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact that is untrue, deceptive, or misleading.

§ 22.1-289.029. Duty of attorneys for the Commonwealth.

It shall be the duty of the attorney for the Commonwealth of every county and city to prosecute all violations of this chapter.

Article 4.

Unlicensed Programs.

§ 22.1-289.030. Exemptions from licensure.

A. The following programs are not child day programs and shall not be required to be licensed:

1. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

2. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances, and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

3. Instructional programs offered by private schools that serve school-age children and that satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

4. Instructional programs offered by public schools that serve preschool-age children, satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

5. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

6. Practice or competition in organized competitive sports leagues.

7. Programs of religious instruction, such as Sunday schools, vacation Bible schools, Bar Mitzvah or Bat Mitzvah classes, and nurseries offered by religious institutions and provided for the duration of specified religious services or related activities to allow parents or guardians or their designees who are on site to attend such religious services and activities.

8. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. The following child day programs shall not be required to be licensed:

1. A child day program or child day center that has obtained an exemption pursuant to § 22.1-289.031.

2. A program where, by written policy given to and signed by a parent or guardian, school-age

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children are free to enter and leave the premises without permission. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection, and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

3. A program that operates no more than a total of 20 program days in the course of a calendar year, provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

4. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes and (ii) is receiving or providing services or participating in activities offered by the establishment.

5. A certified preschool or nursery school program operated by a private school that is accredited by an accrediting organization recognized by the State Board of Education pursuant to § 22.1-19 and complies with the provisions of § 22.1-289.032.

6. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government offering the program.

7. A program offered by a local school division, operated for no more than four hours per day, staffed by local school division employees, and attended by children who are at least four years of age and are enrolled in public school or a preschool program within such school division. Such programs shall be subject to safety and supervisory standards established by the local school division offering the program.

8. Child-minding services offered by a business on the premises of the business to no more than four children under the age of 13 at any given time and for no more than eight hours per day, provided that the parent or guardian of every child receiving care is an employee of the business who is on the premises of the business and can resume responsibility for the child's supervision within 30 minutes upon request.

C. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1 or 5, shall:

1. File with the Superintendent annually and prior to beginning operation of a child day program a statement indicating the intent to operate a child day program, identifying the specific provision of this section relied upon for exemption from licensure, and certifying that the child day program has disclosed in writing to the parents or guardians of the children in the program the fact that it is exempt from licensure;

2. Report to the Superintendent all incidents involving serious physical injury to or death of children attending the child day program. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

3. Post in a visible location on the premises notice that the child day program is operating as a program exempt from licensure with basic health and safety requirements but has no direct oversight by the Department.

D. Child day programs that are exempt from licensure pursuant to subsection B, except for child day programs that are exempt from licensure pursuant to subdivision B 1, 5, 6, or 7 shall:

1. Have a person trained and certified in first aid and cardiopulmonary resuscitation present at the child day program whenever children are present or at any other location in which children attending the child day program are present;

2. Maintain daily attendance records that document the arrival and departure of all children;

3. Have an emergency preparedness plan in place;

4. Comply with all applicable laws and regulations governing transportation of children; and

5. Comply with all safe sleep guidelines recommended by the American Academy of Pediatrics.

E. The Superintendent shall inspect child day programs that are exempt from licensure pursuant to subsection B to determine compliance with the provisions of this section only upon receipt of a complaint, except as otherwise provided by law.

F. No person to whom parental and legal custodial powers have been delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 shall be required to obtain a license to operate an independent foster home or approval as a foster parent from the Commissioner.

G. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Superintendent.

§ 22.1-289.031. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence required; enforcement; injunctive relief.

A. Notwithstanding any other provisions of this chapter, a child day center, including a child day center that is an early childhood care and education entity operated or conducted under the auspices of

a religious institution, shall be exempt from the licensure requirements of this chapter, but shall comply with the provisions of this section unless it chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the Superintendent, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure and has posted the fact that it is exempt from licensure in a visible location on the premises, the qualifications of the personnel employed therein, and documentary evidence that:

1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation.

2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.

3. The child day center employs supervisory personnel according to the following ratio of staff to children:

a. One staff member to four children from ages zero to 16 months.

b. One staff member to five children from ages 16 months to 24 months.

c. One staff member to eight children from ages 24 months to 36 months.

d. One staff member to 10 children from ages 36 months to five years.

e. One staff member to 20 children from ages five years to nine years.

f. One staff member to 25 children from ages nine years to 12 years.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children. In each grouping of children, at least one adult staff member shall be regularly present. However, during designated daily rest periods and designated sleep periods of evening and overnight care programs, for children ages 16 months to six years, only one staff member shall be required to be present with the children under supervision. In such cases, at least one staff member shall be physically present in the same space as the children under supervision at all times. Other staff members counted for purposes of the staff-to-child ratio need not be physically present in the same space as the resting or sleeping children, but shall be present on the same floor as the resting or sleeping children and shall have no barrier to their immediate access to the resting or sleeping children. The staff member who is physically present in the same space as the sleeping children shall be able to summon additional staff counted in the staff-to-child ratio without leaving the space in which the resting or sleeping children are located.

Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

a. This section.

b. Section 22.1-289.039 relating to background checks.

c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.

d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial driver's license; Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement provided to the parents or guardians of the children in the center and made available to the general public: physical facilities, enrollment capacity, food services, health requirements for the staff, and public liability insurance.

7. The individual seeking to operate the child day center is not currently ineligible to operate another early childhood care and education entity due to a suspension or revocation of his license or license exemption for reasons involving child safety or any criminal conviction, including fraud, related to such early childhood care and education entity.

8. A person trained and certified in first aid and cardiopulmonary resuscitation (CPR) will be

present at the child day center whenever children are present or at any other location in which children attending the child day center are present.

9. The child day center is in compliance with all safe sleep guidelines recommended by the American Academy of Pediatrics.

B. The center shall establish and implement procedures for:

1. Hand washing by staff and children before eating and after toileting and diapering.

2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children.

3. A daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

4. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46 regarding the immunization of children against certain diseases.

5. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

6. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

7. Ensuring that all incidents involving serious physical injury to or death of children attending the child day center are reported to the Superintendent. Reports of serious physical injuries, which shall include any physical injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred.

C. The Superintendent may perform on-site inspections of religious institutions to confirm compliance with the provisions of this section and to investigate complaints that the religious institution is not in compliance with the provisions of this section. The Superintendent may revoke the exemption for any child day center in serious or persistent violation of the requirements of this section. If a religious institution operates a child day center and does not file the statement and documentary evidence required by this section, the Superintendent shall give reasonable notice to such religious institution of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including a suit to enjoin the operation of the child day center.

D. Any person who has reason to believe that a child day center falling within the provisions of this section is not in compliance with the requirements of this section may report the same to the Department, the local health department, or the local fire marshal, each of which may inspect the child day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this chapter.

§ 22.1-289.032. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.

A. A preschool or nursery school program operated by a private school accredited by an accrediting organization recognized by the Board pursuant to § 22.1-19 shall be exempt from licensure under this chapter if it complies with the provisions of this section and meets the requirements of subsection B.

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

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

2. The number of pupils in the preschool program does not exceed 12 pupils for each instructional adult, or if operated as a Montessori program with mixed age groups of three-year-old to six-year-old children, the number of pupils in the preschool program does not exceed 15 pupils for each instructional adult;

3. The school (i) maintains an average enrollment ratio during the current school year of five children age five or above to one four-year-old child, and no child in attendance is under age four, or (ii) does not allow children below the age of eligibility for kindergarten attendance to attend the preschool program for more than five hours per day, of which no more than four hours of instructional classes may be provided per day, and no child in attendance is under age three;

4. The preschool offers instructional classes and does not hold itself out as a child care center, child day center, or child day program;

5. Children enrolled in the preschool do not attend more than five days per week; and

6. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety, and welfare of the children.

C. The school shall file with the Superintendent, prior to the beginning of the school year or

calendar year, as the case may be, and thereafter, annually, a statement which includes the following:

1. Intent to operate a certified preschool program;

2. Documentary evidence that the school has been accredited as provided in subsection A;

3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program and has posted in a visible location on the premises the fact of the program's exemption from licensure;

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

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

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

7. Certification that the school will report to the Superintendent all incidents involving serious injury to or death of children attending the preschool program. Reports of serious injuries, which shall include any injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and

8. Documentary evidence that the private school requires all employees of the preschool and other school employees who have contact with the children enrolled in the preschool program to obtain a criminal record check as provided in § 22.1-289.035 to meet the requirements of § 22.1-296.3 as a condition of initial or continued employment.

All accredited private schools seeking certification of preschool programs shall file such information on forms prescribed by the Superintendent. The Superintendent shall certify all preschool programs of accredited private schools which comply with the provisions of subsection A. The Superintendent may conduct an annual inspection of such preschool programs to ensure compliance with the provisions of this section and conduct inspections to investigate complaints alleging noncompliance.

D. A preschool program of a private school that has not been accredited as provided in subsection A shall be subject to licensure.

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

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

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

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

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

J. If a private school operates a child day program outside the scope of its instructional classes during the school year or operates a child day program during the summer, the child day program shall be subject to licensure under the regulations adopted pursuant to § 22.1-289.046.

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

§ 22.1-289.033. Inspection of unlicensed child care operations; inspection warrant.

In order to perform his duties under this chapter, the Superintendent may enter and inspect any unlicensed child care operation with the consent of the owner or person in charge, or pursuant to a warrant. Administrative search warrants for inspections of child care operations, based upon a petition demonstrating probable cause and supported by an affidavit, may be issued ex parte by any judge having authority to issue criminal warrants whose territorial jurisdiction includes the child care operation to be inspected, if he is satisfied from the petition and affidavit that there is reasonable and probable cause for the inspection. The affidavit shall contain either a statement that consent to inspect has been sought and refused, or that facts and circumstances exist reasonably justifying the failure to seek such consent. Such facts may include, without limitation, past refusals to permit inspection or facts establishing reason to believe that seeking consent would provide an opportunity to conceal violations of statutes or regulations. Probable cause may be demonstrated by an affidavit showing probable cause to believe that the child care operation is in violation of any provision of this chapter or any regulation adopted pursuant to this chapter, or upon a showing that the inspection is to be made pursuant to a reasonable administrative plan for the administration of this chapter. The inspection of a child care operation that has been the subject of a complaint pursuant to § 22.1-289.042 shall have preeminent priority over any other inspections of child care operations to be made by the Superintendent unless the complaint on its face or in the context of information known to the Superintendent discloses that the complaint has been brought to harass, to retaliate, or otherwise to achieve an improper purpose, and that the improper purpose casts serious doubt on the veracity of the complaint. After issuing a warrant under this section, the judge shall file the affidavit in the manner prescribed by § 19.2-54. Such warrant shall be executed and returned to the clerk of the circuit court of the city or county wherein the inspection was made.

Article 5.

Background Checks.

§ 22.1-289.034. Barrier crime; construction.

For purposes of this chapter, convictions for any barrier crime as defined in § 19.2-392.02 shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

§ 22.1-289.035. Licensed child day centers and licensed family day homes; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.

A. No child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure pursuant to § 22.1-289.031, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department to provide child care services funded by the Child Care and Development Block Grant shall hire for compensated employment, continue to employ, or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

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

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

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

3. Authorize the child day center, family day home, or family day system described in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect

against him.

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

C. The child day center, family day home, or family day system described in subsection A shall inform every individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the individual's eligibility to have responsibility for the safety and well-being of children.

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

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

F. 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.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, 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.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

I. Any individual required to undergo a background check pursuant to subsection A who is (i) convicted of any barrier crime as defined in § 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center, family day home, or family day system described in subsection A of such conviction or finding.

§ 22.1-289.036. Background check upon application for licensure, registration, or approval as child day center, family day home, or family day system; penalty.

A. Every (i) applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system; (ii) agent of an applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system at the time of application who is or will be involved in the day-to-day operations of the child day center, family day home, or family day system or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in such child day center or family day home shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system and every five years thereafter.

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

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

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

3. Authorize the child day center, family day home, or family day system specified in subsection A to obtain a copy of the results of a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded by the Department or its designee or, in the case of a child day program operated by a local government, may be forwarded by the local law-enforcement agency through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department or its designee. The Department or its designee shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department or its designee is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Superintendent pursuant to § 22.1-289.038, no license as a child day center, family day home, or family day system or registration as a family day home shall be granted by the Superintendent and no approval as a family day home shall be granted by the family day system.

D. Information from a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent, or adult has resided in the preceding five years, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system.

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

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

G. If an individual is denied licensure, registration, or approval because of information from the central registry or any child abuse and neglect registry or equivalent registry maintained by any other state, or convictions appearing on his criminal history record, the Superintendent shall provide a copy of the information obtained from the central registry, any child abuse and neglect registry or equivalent registry maintained by any other state, or the Central Criminal Records Exchange to the individual.

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

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state or the local law-enforcement agency of such processing and administration.

§ 22.1-289.037. Revocation or denial of renewal based on background checks; failure to obtain background check.

A. The Superintendent may revoke or deny renewal of a license or registration of an early childhood care and education entity, and a family day system may revoke the approval of a family day home, if the early childhood care and education entity or approved family day home has knowledge that a person specified in § 22.1-289.035 or 22.1-289.036 required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Superintendent pursuant to § 22.1-289.038 or is not subject to the exceptions in subsection G of § 22.1-289.035, and the agency or home refuses to separate such person from employment or service or allows the household member to continue to reside in the home.

B. Failure to obtain background checks pursuant to §§ 22.1-289.035 and 22.1-289.036 shall be grounds for denial, revocation, or termination of a license, registration, or approval or any contract with the Department or a local department to provide child care services to clients of the Department or local department. No violation shall occur if the family day system, family day home, or child day center has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

§ 22.1-289.038. Early childhood care and education entities; criminal conviction and waiver.

A. Any person who seeks to operate, volunteer, or work at an early childhood care and education entity and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the Department, pursuant to § 22.1-289.035, 22.1-289.036, or 22.1-289.039, may apply in writing for a waiver from the

Superintendent. The Superintendent may grant a waiver if the Superintendent determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Superintendent shall not grant a waiver to any person who has been convicted of any barrier crime as defined in § 19.2-392.02. However, the Superintendent may grant a waiver to a family day home licensed or registered by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, provided that (a) five years have elapsed following the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction. Any waiver granted under this section shall be available for inspection by the public. The early childhood care and education entity 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.

§ 22.1-289.039. Records check by unlicensed child day center; penalty.

Any child day center that is exempt from licensure pursuant to § 22.1-289.031 shall require all applicants for employment, employees, applicants to serve as volunteers, and volunteers and any other person who is expected to be alone with one or more children enrolled in the child day center to obtain a background check in accordance with § 22.1-289.035. A child day center that is exempt from licensure pursuant to § 22.1-289.031 shall refuse employment or service to any person who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Further dissemination of the information provided to the facility is prohibited.

§ 22.1-289.040. Child day centers or family day homes receiving federal, state, or local child care funds; eligibility requirements.

A. Whenever any child day center, family day home, or child day program that has not met the requirements of §§ 22.1-289.035, 22.1-289.036, and 22.1-289.039 applies to enter into a contract with the Department to provide child care services to clients of the Department, the Department shall require a background check, at the time of application to enter into a contract and every five years thereafter, of (i) the applicant; any 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 child day center or family day home pursuant to § 22.1-289.036; and (ii) all applicants for employment, employees, applicants to serve as volunteers, and volunteers pursuant to § 22.1-289.035. The child day center, family day home, or child day program shall not be permitted to enter into a contract with the 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 (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Further dissemination of the information provided to the facility, beyond dissemination to the Department or agents of the Department is prohibited.

B. Every child day center, family day home, or child day program that enters into a contract with the Department to provide child care services to clients of the Department that is funded, in whole or in part, by the Child Care and Development Block Grant, shall comply with all requirements established by federal law and regulations.

§ 22.1-289.041. Sex offender or child abuser prohibited from operating or residing in family day home; penalty.

It shall be unlawful for any person to operate a family day home if he, or if he knows that any other person who resides in, is employed by, or volunteers in the home, has been convicted of a felony in violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-371.1, or 18.2-374.1, has been convicted of any offense that requires registration on the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-902, or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. A violation of this section is punishable as a Class 1 misdemeanor.

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Complaints.

§ 22.1-289.042. Establishment of toll-free telephone line for complaints; investigation on receipt of complaints.

With such funds as are appropriated for this purpose, the Superintendent shall establish a toll-free telephone line to respond to complaints regarding operations of early childhood care and education entities. Upon receipt of a complaint concerning the operation of an early childhood care and education entity, regardless of whether the program is subject to licensure, the Superintendent shall, for good cause shown, cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, records, and facilities. The early childhood care and education entity shall afford the Superintendent reasonable opportunity to inspect all of the operator's activities, services, records, and facilities and to interview its agents and employees and any child within its control. Whenever an early childhood care and education entity subject to inspection under this section is determined by the Superintendent to be in noncompliance with the provisions of this chapter or with regulations adopted pursuant to this chapter, the Superintendent shall give reasonable notice to the early childhood care and education entity of the nature of its noncompliance and may thereafter take appropriate action as provided by law, including a suit to enjoin the operation of the early childhood care and education entity.

§ 22.1-289.043. Confidentiality of complainant's identity.

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any child who is the subject of the complaint, or identified therein, shall be confidential and shall not be open to inspection by members of the public. Identities of the complainant and child who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the early childhood care and education entity the nature of the complaint or the identity of the child who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. If the Department intends to rely, in whole or in part, on any statements made by the complainant at any administrative hearing brought against the early childhood care and education entity, the Department shall disclose the identity of the complainant to the early childhood care and education entity a reasonable time in advance of such hearing.

§ 22.1-289.044. Retaliation or discrimination against complainants.

No early childhood care and education entity shall retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government having responsibility for protecting the rights of children in early childhood care and education entities, (ii) attempts to assert any right protected by state or federal law, or (iii) assists any person in asserting such right.

§ 22.1-289.045. Retaliation against reports of child abuse or neglect.

No early childhood care and education entity shall retaliate in any manner against any person who in good faith reports adult or child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.

Article 7.

Regulations and Interdepartmental Cooperation.

§ 22.1-289.046. Regulations for early childhood care and education entities.

A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

Such regulations governing child day programs providing care for school-age children at a location that is currently approved by the Department or recognized as a private school by the Board for school occupancy and that houses a public or private school during the school year shall not (i) prohibit school-age children from using outdoor play equipment and areas approved for use by students of the school during school hours or (ii) in the case of public schools, require inspection or approval of the building, vehicles used to transport children attending the child day program that are owned by the school, or meals served to such children that are prepared by the school.

Such regulations governing orientation and training of child day program staff shall provide that parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall be exempt from orientation and training requirements applicable to staff of child day programs; however, such regulations may require such parents and persons to complete up to four hours of training per year. This orientation and training exemption shall not apply to any parent or other person who participates in a cooperative preschool center that has entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant.

B. The Board shall adopt or amend regulations, policies, and procedures related to child day care in collaboration with the Virginia Recreation and Park Society. No regulation adopted by the Board shall prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or employees of the center. The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services.

§ 22.1-289.047. Interagency agreements; cooperation of Department with other departments.

The Department is authorized to enter into interagency agreements with other state agencies to develop and implement regulations adopted pursuant to this chapter. Any state agency identified by the Department as appropriate to include in an interagency agreement shall participate in the development and implementation of the agreement. The Department shall assist and cooperate with other state departments in fulfilling their respective inspection responsibilities and in coordinating the regulations involving inspections. The Board may adopt regulations allowing the Department to so assist and cooperate with other state departments.

§ 22.1-289.048. Program leaders and child-care supervisors at licensed child day centers; approved credential.

Program leaders and child-care supervisors employed by child day centers may possess an approved credential. For purposes of this section:

"Approved credential" means a competency-based credential awarded to individuals who work with children ages five and under in either a teaching, supervisory, or administrative capacity and that is specifically awarded or administered by the National Association for the Education of Young Children; the National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; the National Accreditation Commission; the Virginia Community College System, or another institution of higher education; or its equivalent as determined by the Department.

"Program leader" or "child-care supervisor" means an individual designated to be responsible for the direct supervision of children and for the implementation of the activities and services for a group of children in a licensed child day center.

Article 8.

Facilities and Programs.

§ 22.1-289.049. Regulated child day programs to require proof of child identity and age; report to law-enforcement agencies.

A. Upon enrollment of a child in a regulated child day program, such child day program shall require information from the person enrolling the child regarding previous child day care and schools attended by the child. The regulated child day program shall also require that the person enrolling the child present the regulated child day program with the proof of the child's identity and age. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction, or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

B. For purposes of this section:

"Proof of identity" means a certified copy of a birth certificate or other reliable proof of the child's identity and age.

"Regulated child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period that is licensed pursuant to § 22.1-289.011, voluntarily registered pursuant to § 22.1-289.015, certified as a preschool or nursery school program pursuant to § 22.1-289.032,

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exempted from licensure as a child day center operated by a religious institution pursuant to § 22.1-289.031, or approved as a family day home by a licensed family day system.

C. If the parent, guardian, or other person enrolling the child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the information required by subsection A within seven business days of initial attendance, such child day program shall immediately notify the local law-enforcement agency in its jurisdiction of such failure to provide the requested information.

D. Upon receiving notification of such failure to provide the information required by subsection A, the law-enforcement agency shall, if available information warrants, immediately submit an inquiry to the Missing Children Information Clearinghouse and, with the assistance of the local department, if available information warrants, conduct the appropriate investigation to determine whether the child is missing.

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

§ 22.1-289.050. Insurance notice requirements for family day homes; civil penalty.

A. Any person who operates a family day home approved by a licensed family day system, a licensed family day home, or a voluntarily registered family day home shall furnish a written notice to the parent or guardian of each child under the care of the family day home, which states whether there is liability insurance in force to cover the operation of the family day home, provided that no person under this section shall state that liability insurance is in place to cover the operation of the family day home, unless there is a minimum amount of coverage as established by the Department.

B. Each parent or guardian shall acknowledge, in writing, receipt of such notice. In the event there is no longer insurance coverage, the person operating the family day home shall (i) notify each parent or guardian within 10 business days after the effective date of the change and (ii) obtain written acknowledgment of such notice. A copy of an acknowledgment required under this section shall be maintained on file at the family day home at all times while the child attends the family day home and for 12 months after the child's last date of attendance.

C. Any person who fails to give any notice required under this section shall be subject to a civil penalty of up to $500 for each such failure.

§ 22.1-289.051. Dual licenses for certain child day centers.

Any facility licensed as a child day center which also meets the requirements for a license as a summer camp by the Department of Health under the provisions of § 35.1-18 shall be entitled to a summer camp license. Such a facility shall comply with all of the regulations adopted by the Board and the State Board of Health for each such license.

§ 22.1-289.052. Asbestos inspection required for child day centers.

The Superintendent shall not issue a license to any child day center that is located in a building built prior to 1978 until he receives a written statement that the building has been inspected for asbestos, as defined by § 2.2-1162, and in accordance with the regulations for initial asbestos inspections pursuant to the federal Asbestos Hazard Emergency Response Act, 40 C.F.R. Part 763 — Asbestos Containing Materials in Schools. The inspection shall be conducted by personnel competent to identify the presence of asbestos and licensed in Virginia as an asbestos inspector and as an asbestos management planner pursuant to Chapter 5 (§ 54.1-500 et seq.) of Title 54.1. The written statement shall state whether (i) no asbestos was detected, (ii) asbestos was detected and response actions to abate any risk to human health have been completed, or (iii) asbestos was detected and response actions to abate any risk to human health have been recommended in accordance with a specified schedule and plan pursuant to applicable state and federal statutes and regulations. The statement shall include identification of any significant hazard areas, the date of the inspection and be signed by the person who inspected for the asbestos. If asbestos was detected, an operations and maintenance plan shall be developed in accordance with the regulations of the federal Asbestos Hazard Emergency Response Act and the statement shall be signed by the person who prepared the operations and maintenance plan. Any inspection, preparation of an operations and maintenance plan or response action shall be performed by competent personnel who have been licensed in accordance with the provisions of Chapter 5 of Title 54.1.

When asbestos has been detected, the applicant for licensure shall also submit to the Superintendent a written statement that response actions to abate any risk to human health have been or will be initiated in accordance with a specified schedule and plan as recommended by an asbestos management planner licensed in Virginia. This statement shall be signed by the applicant for licensure.

The written statements required by this section shall be submitted for approval to the Superintendent's representative prior to issuance of a license. The provisions of this section shall not apply to child day centers located in buildings required to be inspected pursuant to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2.

§ 22.1-289.053. Delay in acting on application or in notification.

In case the Superintendent fails to take final action upon an application for a license within 60 days

after the application is made, either by way of issuance or refusal, or fails within such time to notify the applicant thereof, it shall be lawful for the applicant to engage in the operations or activities for which the license is desired, until the Superintendent has taken final action and notified the applicant thereof; however, no application shall be deemed made until all the required information is submitted in the form prescribed by the Superintendent.

§ 22.1-289.054. Visitation by parents or guardians in child day programs.

A custodial parent or guardian shall be admitted to any child day program. For purposes of this section, "child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period, regardless of whether it is licensed. Such right of admission shall apply only while the child is in the child day program.

§ 22.1-289.055. Public funds to be withheld for serious or persistent violations.

The Board may adopt policies, as permitted by state and federal law, to restrict the eligibility of an early childhood care and education entity to receive or continue to receive funds when such agency is found to be in serious or persistent violation of regulations.

§ 22.1-289.056. Municipal and county appropriations; contracts.

The governing bodies of the several cities and counties of this Commonwealth may, in their discretion, appropriate to incorporated charitable organizations licensed by the Superintendent for the purpose of receiving and caring for children, or placing or boarding them in private homes, such sums as to them may seem proper, for the maintenance and care of such dependent children as the charitable organizations may receive from the respective cities and counties. The governing body of any county may make contracts with such organizations.

§ 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~~ *an early childhood care and education entity* regulated by the Department ~~of Social Services~~ pursuant to Chapter ~~17~~ *14.1* (§ ~~63.2-1700~~ *22.1-289.02* et seq.) ~~of Title 63.2~~ shall accept evidence of a background check in accordance with § ~~63.2-1720.1~~ *22.1-289.035* 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

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subsection A.

D. 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.

§ 22.1-299.4. Teach For America license.

A. Notwithstanding any provision of law to the contrary, the Board shall issue a two-year provisional license, hereafter referred to as the Teach For America license, to any participant in Teach For America, a nationwide nonprofit organization focused on closing the academic achievement gaps between students in high-income and low-income areas, who submits an application and meets the following criteria:

1. Holds, at minimum, a baccalaureate degree from a regionally accredited institution of higher education;

2. Has met the requirements prescribed by the Board for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the Board for the endorsements sought;

3. Possesses good moral character according to criteria developed by the Board;

4. Has been offered and has accepted placement in Teach For America;

5. Has successfully completed pre-service training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

6. Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to ~~subsection C of~~ § ~~22.1-199.1~~ *22.1-289.09*; and

7. Receives a recommendation from the employing school division for a Teach For America license in the endorsement area in which the individual seeks to be licensed.

B. In addition to the criteria set forth in subsection A, any individual who seeks an endorsement in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of reading as may be prescribed by the Board pursuant to regulation during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the Board pursuant to regulation.

C. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303.

D. The Board may extend any Teach For America license for one additional year upon request of the employing school division, provided that no Teach For America license shall exceed a total of three years in length.

E. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to ~~subsection C of~~ § ~~22.1-199.1~~ *22.1-289.09*, an individual holding a Teach For America license shall be eligible to receive a renewable license if he has (i) achieved satisfactory scores on all professional teacher assessments required by the Board and (ii) received satisfactory evaluations at the conclusion of each year of employment.

F. Notwithstanding any provision of law to the contrary, the Board shall issue a Teach For America license to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subsection A.

§ 46.2-341.9. Eligibility for commercial driver's license or commercial learner's permit.

A. A Virginia commercial driver's license or commercial learner's permit shall be issued only to a person who drives or intends to drive a commercial motor vehicle, who is domiciled in the Commonwealth, and who is eligible for a commercial driver's license or commercial learner's permit under such terms and conditions as the Department may require.

No person shall be eligible for a Virginia commercial driver's license or commercial learner's permit until he has applied for such license or permit and has passed the applicable vision, knowledge and skills tests required by this article, and has satisfied all other applicable licensing requirements imposed by the laws of the Commonwealth. Such requirements shall include meeting the standards contained in subparts F, G, and H, of Part 383 of the FMCSA regulations.

No person shall be eligible for a Virginia commercial driver's license or commercial learner's permit during any period in which he is disqualified from driving a commercial motor vehicle, or his driver's license or privilege to drive is suspended, revoked or cancelled in any state, or during any period wherein the restoration of his license or privilege is contingent upon the furnishing of proof of financial responsibility.

No person shall be eligible for a Virginia commercial driver's license until he surrenders all other driver's licenses issued to him by any state.

No person shall be eligible for a Virginia commercial learner's permit until he surrenders all other driver's licenses and permits issued to him by any other state. The applicant for a commercial learner's permit is not required to surrender his Virginia noncommercial driver's license.

No person under the age of 21 years shall be eligible for a commercial driver's license, except that a person who is at least 18 years of age may be issued a commercial driver's license or commercial learner's permit, provided that such person is exempt from or is not subject to the age requirements of the Federal Motor Carrier Safety Regulations contained in 49 C.F.R. Part 391, and is not prohibited from operating a commercial motor vehicle by the Virginia Motor Carrier Safety Regulations, and has so certified. No person under the age of 21 years shall be issued a hazardous materials endorsement.

No person shall be eligible for a Virginia commercial driver's license to drive a Type S vehicle, as defined in subsection B of § 46.2-341.16, during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

In determining the eligibility of any applicant for a Virginia commercial driver's license, the Department shall consider, to the extent not inconsistent with federal law, the applicant's military training and experience.

A person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 may be issued a Virginia commercial driver's license to drive a Type P vehicle, as defined in subsection B of § 46.2-341.16, provided the commercial driver's license includes a restriction prohibiting the license holder from operating a commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the ~~Virginia~~ Department of ~~Social Services~~ *Education*.

B. Notwithstanding the provisions of subsection A, pursuant to 49 U.S.C. 31311(a)(12) a commercial driver's license or commercial learner's permit may be issued to an individual who (i) operates or will operate a commercial motor vehicle; (ii) is a member of the active duty military, military reserves, National Guard, active duty United States Coast Guard, or Coast Guard Auxiliary; and (iii) is not domiciled in the Commonwealth, but whose temporary or permanent duty station is located in the Commonwealth.

§ 46.2-341.10. Special provisions relating to commercial learner's permit.

A. The Department upon receiving an application on forms prescribed by the Commissioner and upon the applicant's satisfactory completion of the vision and knowledge tests required for the class and type of commercial motor vehicle to be driven by the applicant may, in its discretion, issue to such applicant a commercial learner's permit. Such permit shall be valid for no more than one year from the date of issuance. No renewals are permitted. A commercial learner's permit shall entitle the applicant to drive a commercial motor vehicle of the class and type designated on the permit, but only when accompanied by a person licensed to drive the class and type of commercial motor vehicle driven by the applicant. The person accompanying the permit holder shall occupy the seat closest to the driver's seat for the purpose of giving instruction to the permit holder in driving the commercial motor vehicle.

B. No person shall be issued a commercial learner's permit unless he possesses a valid Virginia driver's license or has satisfied all the requirements necessary to obtain such a license.

C. A commercial learner's permit holder with a passenger (P) endorsement (i) must have taken and passed the P endorsement knowledge test and (ii) is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder. The P endorsement must be class specific.

D. A commercial learner's permit holder with a school bus (S) endorsement (i) must have taken and passed the S endorsement knowledge test and (ii) is prohibited from operating a school bus with passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder. No person shall be issued a commercial learner's permit to drive school buses or to drive any commercial vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the ~~Virginia~~ Department of ~~Social Services~~ *Education* during any period in which he is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

E. A commercial learner's permit holder with a tank vehicle (N) endorsement (i) must have taken and passed the N endorsement knowledge test and (ii) may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

F. The issuance of a commercial learner's permit is a precondition to the initial issuance of a

commercial driver's license and to the upgrade of a commercial driver's license if the upgrade requires a skills test. The commercial learner's permit holder is not eligible to take the commercial driver's license skills test until he has held the permit for the required period of time specified in § 46.2-324.1.

G. Any commercial learner's permit holder who operates a commercial motor vehicle without being accompanied by a licensed driver as provided in this section is guilty of a Class 2 misdemeanor.

H. The Department shall charge a fee of $3 for each commercial learner's permit issued under the provisions of this section.

§ 46.2-341.18:3. Cancellation of commercial driver's license endorsement for certain offenders.

The Commissioner shall cancel the Type S school bus endorsement for any person holding a commercial driver's license or commercial learner's permit who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

Any person holding a commercial driver's license or commercial learner's permit with a Type P passenger endorsement who is convicted of an offense for which registration is required in the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall surrender such license or permit to the Department, and shall be issued a license or permit that includes a restriction prohibiting the license or permit holder from operating a vehicle to transport children to or from activities sponsored by a school or by a child day care facility licensed, regulated, or approved by the ~~Virginia~~ Department of ~~Social Services~~ *Education*.

If the holder of a commercial driver's license or commercial learner's permit fails to surrender the license or permit as required under this section, the Department shall cancel the license or permit.

§ 51.1-617. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Trustees of the Virginia Retirement System.

"Eligible employee" means any turnaround specialist or member of the middle school teacher corps providing services for a participating public school division pursuant to subsections ~~F~~ *E* and ~~G~~ *F* of § 22.1-199.1.

"Participating employer" means any local public school board that offers and pays the costs of improved retirement benefits as described in subsections ~~F~~ *E* and ~~G~~ *F* of § 22.1-199.1.

"Plan" means the defined contribution plan established pursuant to this chapter and the provisions of § 401 (a) of the Internal Revenue Code of 1986, as amended.

"Qualified participant" means an eligible employee of a participating employer.

§ 54.1-3005. Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;

2. To approve programs that meet the requirements of this chapter and of the Board;

3. To provide consultation service for educational programs as requested;

4. To provide for periodic surveys of educational programs;

5. To deny or withdraw approval from educational or training programs for failure to meet prescribed standards;

6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;

7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin

and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, pursuant to § 54.1-119 for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § ~~63.2-100~~ *22.1-289.02* and regulated by the ~~State~~ Board of ~~Social Services~~ *Education* in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957.

§ 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical

nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of an organization providing outdoor educational experiences or programs for youth who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom

glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, or his remote supervision, as defined in subsection E or F of § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, and any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training

program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § ~~63.2-100~~ *22.1-289.02* and regulated by the ~~State~~ Board of ~~Social Services~~ *Education* or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse, or dental hygienist may possess and administer topical fluoride varnish pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist, a health care provider providing services in a hospital emergency department, and emergency medical services personnel, as that term is defined in § 32.1-111.1, may dispense naloxone or other opioid antagonist used for overdose reversal and a person to whom naloxone or other opioid antagonist has been dispensed pursuant to this subsection may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. Law-enforcement officers as defined in § 9.1-101, employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services, employees of the Department of Corrections designated as probation and parole officers or as correctional officers as defined in § 53.1-1, employees of regional jails, school nurses, local health department employees that are assigned to a public school pursuant to an agreement between the local health department and the school board, other school board employees or individuals contracted by a school board to provide school health services, and firefighters who have completed a training program may also possess and administer naloxone or other opioid antagonist used for overdose reversal and may dispense naloxone or other opioid antagonist used for overdose reversal pursuant to an oral, written, or standing order issued by a prescriber or a standing order issued by the Commissioner of Health or his designee in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

Y. Notwithstanding any other law or regulation to the contrary, a person who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal may dispense naloxone to a person who has received instruction on the administration of naloxone for opioid overdose reversal, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber and (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. If the person acting on behalf of an organization dispenses naloxone in an injectable formulation with a hypodermic needle or syringe, he shall first obtain authorization from the Department of Behavioral Health and Developmental Services to train individuals on the proper administration of naloxone by and proper disposal of a hypodermic needle or syringe, and he shall obtain a controlled substance registration from the Board of Pharmacy. The Board of Pharmacy shall not charge a fee for the issuance of such controlled substance registration. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. No person who dispenses naloxone on behalf of an organization pursuant to this subsection shall charge a fee for the dispensing of naloxone that is greater than the cost to the organization of obtaining the naloxone dispensed. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.

Z. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19

as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

§ 58.1-439.4. Day-care facility investment tax credit.

A. For taxable years beginning on and after January 1, 1997, any taxpayer shall be allowed a credit against the taxes imposed by § 58.1-320 or ~~§~~ 58.1-400 in an amount equal to ~~twenty-five~~ *25* percent of all expenditures paid or incurred by such taxpayer in such taxable year for planning, site preparation, construction, renovation, or acquisition of facilities for the purpose of establishing a child day-care facility to be used primarily by the children of such taxpayer's employees, and equipment installed for permanent use within or immediately adjacent to such facility, including kitchen appliances, to the extent that such equipment or appliances are necessary in the use of such facility for purposes of child day-care; however, the amount of credit allowed to any taxpayer under this section shall not exceed $25,000. If two or more taxpayers share in the cost of establishing the child day-care facility for the children of their employees, each such taxpayer shall be allowed such credit in relation to the respective share paid or incurred by such taxpayer, of the total expenditures for the facility in such taxable year.

B. The credits provided under this section shall be allowed only if (i) the child day-care facility shall be operated under the authority of a license issued by the ~~Commissioner of Social Services~~ *Superintendent of Public Instruction* pursuant to § ~~63.2-1701~~ *22.1-289.011*, (ii) an application for a building permit for the facility is made after July 1, 1996, and (iii) the Tax Commissioner approves a taxpayer's application for a credit. Proper applications submitted to the Department for the credit shall be approved in the order received. For each application approved for credit it shall be assumed that the amount of the credit will be $25,000, and the amount of the credit will be taken in the fiscal year in which the application is approved and the following two fiscal years. Approval of applications shall be limited to those that are assumed to result in no more than $100,000 of credits in any fiscal year based on the assumptions set forth in this subsection.

C. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next three taxable years; however, the balance of a credit shall not be claimed for any succeeding taxable year in which the child day-care facility is operated for purposes of child day-care for less than six months.

D. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

§ 63.2-100. Definitions.

As used in this title, unless the context requires a different meaning:

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act

of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 or his funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult as defined in § 63.2-1603 is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for

in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

~~"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.~~

~~"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.~~

"Child-placing agency" means (i) any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819, (ii) a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221, or (iii) an entity that assists parents with the process of delegating parental and legal custodial powers of their children pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. "Child-placing agency" does not include the persons to whom such parental or legal custodial powers are delegated pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a ~~child day center,~~ child-placing agency, children's residential facility, ~~family day home, family day system,~~ or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

2. An establishment required to be licensed as a summer camp by § 35.1-18; and

3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated

as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family and permanency team" means the group of individuals assembled by the local department to assist with determining planning and placement options for a child, which shall include, as appropriate, all biological relatives and fictive kin of the child, as well as any professionals who have served as a resource to the child or his family, such as teachers, medical or mental health providers, and clergy members. In the case of a child who is 14 years of age or older, the family and permanency team shall also include any members of the child's case planning team that were selected by the child in accordance with subsection A of § 16.1-281.

~~"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.~~

~~"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.~~

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency. "Foster care placement" does not include placement of a child in accordance with a power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Foster home" means a residence licensed by a child-placing agency or local board in which any child, other than a child by birth or adoption of such person or a child who is the subject of a power of attorney to delegate parental or legal custodial powers by his parents or legal custodian to the natural person who has been designated the child's legal guardian pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 and who exercises legal authority over the child on a continuous basis for at least 24 hours without compensation, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children or were formerly committed to the Department of Juvenile Justice and are between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in

the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Kinship guardian" means the adult relative of a child in a kinship guardianship established in accordance with § 63.2-1305 who has been awarded custody of the child by the court after acting as the child's foster parent.

"Kinship guardianship" means a relationship established in accordance with § 63.2-1305 between a child and an adult relative of the child who has formerly acted as the child's foster parent that is intended to be permanent and self-sustaining as evidenced by the transfer by the court to the adult relative of the child of the authority necessary to ensure the protection, education, care and control, and custody of the child and the authority for decision making for the child.

"Kinship Guardianship Assistance program" means a program consistent with 42 U.S.C. § 673 that provides, subject to a kinship guardianship assistance agreement developed in accordance with § 63.2-1305, payments to eligible individuals who have received custody of a relative child of whom they had been the foster parents.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Qualified individual" means a trained professional or licensed clinician who is not an employee of the local board of social services or licensed child-placing agency that placed the child in a qualified

residential treatment program and is not affiliated with any placement setting in which children are placed by such local board of social services or licensed child-placing agency.

"Qualified residential treatment program" means a program that (i) provides 24-hour residential placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that meets the clinical and other needs of children with serious emotional or behavioral disorders, including any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts outreach with the child's family members, including efforts to maintain connections between the child and his siblings and other family; documents and maintains records of such outreach efforts; and maintains contact information for any known biological family and fictive kin of the child; (v) whenever appropriate and in the best interest of the child, facilitates participation by family members in the child's treatment program before and after discharge and documents the manner in which such participation is facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an organization approved by the federal Secretary of Health and Human Services; and (viii) requires that any child placed in the program receive an assessment within 30 days of such placement by a qualified individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, and functional assessment tool approved by the Commissioner of Social Services; (b) identifies whether the needs of the child can be met through placement with a family member or in a foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified residential treatment program, that would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals established for the child in his foster care or permanency plan; (c) establishes a list of short-term and long-term mental and behavioral health goals for the child; and (d) is documented in a written report to be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282, 16.1-282.1, or 16.1-282.2.

~~"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.~~

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from Virginia Initiative for Education and Work (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

§ 63.2-207. Authority to receive grants-in-aid, funds and gifts.

The Commissioner is authorized to receive, for and on behalf of the Commonwealth and its subdivisions, from the United States and agencies thereof, and from any and all other sources, grants-in-aid, funds and gifts, made for the purpose of providing, or to assist in providing, for funds for child welfare services ~~including day care for children~~, disaster relief and emergency assistance awards, Temporary Assistance for Needy Families, and general relief, or any of them, including expenses of administration. Subject to the written approval of the Governor, the Commissioner is also authorized to

receive from all such sources grants-in-aid, funds and gifts made for the purpose of alleviating, treating or preventing poverty, delinquency or other social problems encountered in programs under the supervision or administration of the Commissioner. All such funds shall be paid into the state treasury.

§ 63.2-215. State Board of Social Services.

There shall be a State Board of Social Services consisting of 11 members appointed by the Governor. In making appointments, the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various problems that the Board may be required to consider and act upon. The Board shall include a member from each of the social services regions of the state established by the Commissioner. At least one member of the Board shall be a licensed health care professional~~, one member shall be a representative of stand-alone licensed child care centers that meet the accountability standards of state recognized accreditation pursuant to § 22.1-19, and one member shall be a representative of religiously exempt child care centers~~. The appointments shall be subject to confirmation by the General Assembly if in session and, if not, then at its next succeeding session.

The members of the Board shall be appointed for four-year terms, except that appointments to fill vacancies shall be for the unexpired term.

No person shall be eligible to serve for or during more than two successive terms; however, any person appointed to fill a vacancy may be eligible for two additional successive terms after the term of the vacancy for which he was appointed has expired. Members of the Board may be suspended or removed by the Governor at his pleasure.

The Board shall select a chairman from its membership, and under rules adopted by itself may elect one of its members as vice-chairman. It shall elect one of its members as secretary.

The Board shall meet at such times as it deems appropriate and on call of the chairman when in his opinion meetings are expedient or necessary, provided that the Board meet at least six times each calendar year.

A majority of the current membership of the Board shall constitute a quorum for all purposes.

The main office of the Board shall be in the City of Richmond.

§ 63.2-501. Application for assistance.

A. Except as provided for in the state plan for medical assistance services pursuant to § 32.1-325, application for public assistance shall be made to the local department and filed with the local director of the county or city in which the applicant resides; however, when necessary to overcome backlogs in the application and renewal process, the Commissioner may temporarily utilize other entities to receive and process applications, conduct periodic eligibility renewals, and perform other tasks associated with eligibility determinations. Such entities shall be subject to the confidentiality requirements set forth in § 63.2-501.1. Applications and renewals processed by other entities pursuant to this subsection shall be subject to appeals pursuant to § 63.2-517. Such application may be made either electronically or in writing on forms prescribed by the Commissioner and shall be signed by the applicant or otherwise attested to in a manner prescribed by the Commissioner under penalty of perjury in accordance with § 63.2-502.

If the condition of the applicant for public assistance precludes his signing or otherwise attesting to the accuracy of information contained in an application for public assistance, the application may be made on his behalf by his guardian or conservator. If no guardian or conservator has been appointed for the applicant, the application may be made by any competent adult person having sufficient knowledge of the applicant's circumstances to provide the necessary information, until such time as a guardian or conservator is appointed by a court.

B. Local departments or the Commissioner shall provide each applicant for public assistance with information regarding his rights and responsibilities related to eligibility for and continued receipt of public assistance. Such information shall be provided in an electronic or written format approved by the Board that is easily understandable and shall also be provided orally to the applicant by an employee of the local department, except in the case of energy assistance. The local department shall require each applicant to acknowledge, in a format approved by the Board, that the information required by this subsection has been provided and shall maintain such acknowledgment together with information regarding the application for public assistance.

C. Local departments or the Commissioner shall provide each applicant for Medicaid with information regarding advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive.

D. The Commissioner and local departments shall administer the Child Care Subsidy Program as provided for in the State Child Care Plan prepared by the Department of Education. In administering the Child Care Subsidy Program, the Commissioner and local departments shall permit any parent to apply without providing the known or potential name of the child's other parent.

§ 63.2-601.2. Statewide Temporary Assistance for Needy Families (TANF) Program Funding

Pool Program.

A. The Department shall develop a Statewide TANF Program Funding Pool Program (the Funding Pool Program) and shall allocate to the Funding Pool Program that portion of the TANF block grant to be awarded to service providers for expanded TANF programs, which shall include all funds not transferred to the ~~Child Care and Development Block Grant or~~ Social Services Block Grant or used for cash assistance, employment services, or child-care benefits through the TANF program, up to an amount equal to 12 percent of the total amount of the TANF block grant for that year.

B. Prior to submission of its proposed biennial budget to the Governor, the Department shall issue a Request for Proposals for use of available funds from the Funding Pool Program to service providers providing expanded TANF programs through a competitive process that is designed in a manner that ensures that all service providers in the Commonwealth, regardless of size or geographic location, are afforded the opportunity to apply for funds. All programs and services funded through the Funding Pool Program shall comply with all federal and state statutory and regulatory requirements and shall serve the stated purposes of the TANF program.

C. In developing the Request for Proposals, the Department shall include:

1. A long-range planning and priority-setting process to identify state and local service needs and avoid overlap or duplication of services. The planning and priority-setting process shall include opportunity for citizen participation and consideration of local and statewide service needs and priorities;

2. A competitive process, to include uniform eligibility criteria for service providers seeking funding and uniform application and selection procedures for comparable service categories;

3. Uniform oversight, administrative, and reporting requirements for service providers receiving funding through the Funding Pool Program; and

4. Uniform program evaluation criteria to determine the effectiveness and efficiency of comparable services funded through the Funding Pool Program.

D. The Department shall require all service providers applying for funding through the Funding Pool Program to submit a detailed proposal that includes a proposed budget, proposed program outcomes, and proposed program outcome measures. Following review of applications for funding received pursuant to this section, the Department shall provide a summary of the requests for funding and recommendations to the Governor and the General Assembly of the programs to be funded in the proposed biennial budget, the levels of funding recommended, and the rationale for such recommendations, and the Governor shall consider such recommendations in developing the proposed budget.

E. The Department shall require all providers receiving Funding Pool Program funds to report annually on the use of the funds and outcomes achieved and shall include such information in its annual report to the General Assembly.

§ 63.2-603. Eligibility for TANF; childhood immunizations.

An applicant for TANF shall provide verification that all eligible children not enrolled in school, a licensed family day home *as defined in § 22.1-289.02*, or a licensed child day center *as defined in § 22.1-289.02*, have received immunizations in accordance with § 32.1-46. However, if an eligible child has not received immunizations in accordance with § 32.1-46, verification shall be provided at the next scheduled redetermination of eligibility for TANF after initial eligibility is granted that the child has received at least one dose of each of the immunizations required by § 32.1-46 as appropriate for the child's age and that the child's physician or the local health department has developed a plan for completing the immunizations. Verification of compliance with the plan for completing the immunizations shall be presented at subsequent redeterminations of eligibility for TANF.

If necessary, the local department shall provide assistance to the TANF recipient in obtaining verification from immunization providers. No sanction may be imposed until the reason for the failure to comply with the immunization requirement has been identified and any barriers to accessing immunizations have been removed.

Failure by the recipient to provide the required verification of immunizations shall result in a reduction in the amount of monthly assistance received from the TANF program until the required verification is provided. The reduction shall be ~~fifty dollars~~ *$50* for the first child and ~~twenty-five dollars~~ *$25* for each additional child for whom verification is not provided.

Any person who becomes ineligible for TANF payments as a result of this provision shall nonetheless be considered a TANF recipient for all other purposes.

§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;

2. Any hospital resident or intern, and any person employed in the nursing profession;

3. Any person employed as a social worker or family-services specialist;

4. Any probation officer;

5. Any teacher or other person employed in a public or private school, kindergarten, or ~~nursery school~~ *early childhood care and education entity, as that term is defined in § 22.1-289.02*;

6. Any person providing full-time or part-time child care for pay on a regularly planned basis;

7. Any mental health professional;

8. Any law-enforcement officer or animal control officer;

9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;

10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;

11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;

12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;

14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;

15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs;

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client; and

19. Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational

Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall, due to the special medical needs of infants affected by substance exposure, include (i) a finding made by a health care provider within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider within four years following a child's birth that the child has an illness, disease, or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report. Such reports shall not constitute a per se finding of child abuse or neglect. If a health care provider in a licensed hospital makes any finding or diagnosis set forth in clause (i), (ii), or (iii), the hospital shall require the development of a written discharge plan under protocols established by the hospital pursuant to subdivision B 6 of § 32.1-127.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than $500 for the first failure and for any subsequent failures not less than $1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

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

The central registry shall contain such information as shall be prescribed by Board regulation; however, when the founded case of abuse or neglect does not name the parents or guardians of the child as the abuser or neglector, and the abuse or neglect occurred in a licensed or unlicensed child day center~~,~~ *as defined in § 22.1-289.02;* a licensed, registered, or approved family day home~~,~~ *as defined in § 22.1-289.02;* a private or public school~~,~~*;* or a children's residential facility, the child's name shall not be entered on the registry without consultation with and permission of the parents or guardians. If a child's name currently appears on the registry without consultation with and permission of the parents or guardians for a founded case of abuse and neglect that does not name the parents or guardians of the child as the abuser or neglector, such parents or guardians may have the child's name removed by written request to the Department. The information contained in the central registry shall not be open to inspection by the public. However, appropriate disclosure may be made in accordance with Board regulations.

The Department shall respond to requests for a search of the central registry made by (i) local departments, (ii) local school boards, and (iii) governing boards or administrators of private schools accredited pursuant to § 22.1-19 regarding applicants for employment, pursuant to § 22.1-296.4, in cases where there is no match within the central registry within 10 business days of receipt of such requests. In cases where there is a match within the central registry regarding applicants for employment, the Department shall respond to requests made by local departments, local school boards, and governing boards or administrators within 30 business days of receipt of such requests. The response may be by first-class mail or facsimile transmission.

The Department shall disclose information in the central registry to the Chairmen of the Committees for the Courts of Justice of the Senate and House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been the subject of any founded complaint of child abuse or neglect.

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

§ 63.2-1700. Application fees; regulations and schedules; use of fees; certain facilities, centers, and agencies exempt.

The Board is authorized to adopt regulations and schedules for fees to be charged for processing applications for licenses to operate assisted living facilities, adult day care centers, and child welfare agencies. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity of such facilities, centers, and agencies. Fees shall be used for the development and delivery of training for operators and staff of facilities, centers, and agencies. Fees shall be expended for this purpose within two fiscal years following the fiscal year in which they are collected. These fees shall not be applicable to facilities, centers, or agencies operated by federal entities.

~~The Board shall develop training programs for operators and staffs of licensed child day programs. Such programs shall include formal and informal training offered by institutions of higher education, state and national associations representing child care professionals, local and regional early childhood educational organizations and licensed child care providers. Training provided to operators and staffs of licensed child day programs shall include training and information regarding shaken baby syndrome, its effects, and resources for help and support for caretakers. To the maximum extent possible, the Board shall ensure that all provider interests are represented and that no single approach to training shall be given preference.~~

§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents, participants or children; posting of licenses.

A. As used in this section, "person" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child welfare agency, adult day care center, or assisted living facility.

B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day care center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be renewed. However, no license shall be required for an adult day care center that provides services only to individuals enrolled in a Programs of All-Inclusive Care for the Elderly program operated in accordance with an agreement between the provider, the Department of Medical Assistance Services and the Centers for Medicare and Medicaid Services. The Commissioner, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services to be employed, together with other pertinent information as the Commissioner may require.

C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may be issued for concurrent operation of more than one assisted living facility, adult day care center, or child welfare agency, but each license shall be issued upon a separate form. Each license and renewals thereof for an assisted living facility, adult day care center, or child welfare agency may be issued for periods of up to three successive years, unless sooner revoked or surrendered. ~~Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.~~

D. The length of each license or renewal thereof for an assisted living facility shall be based on the judgment of the Commissioner regarding the compliance history of the facility and the extent to which it meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue licenses or renewals thereof for periods of six months, one year, two years, or three years.

E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

F. Each license shall indicate the maximum number of persons who may be cared for in the assisted living facility, adult day care center, or child welfare agency for which it is issued.

G. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

H. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

I. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

§ 63.2-1702. Investigation on receipt of application.

Upon receipt of the application, the Commissioner shall cause an investigation to be made of the activities, services, and facilities of the applicant and of his character and reputation or, if the applicant is an association, partnership, limited liability company, or corporation, the character and reputation of

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

§ 63.2-1706.1. Inspections of child welfare agencies; prioritization.

The Commissioner shall prioritize inspections of child welfare agencies in the following order: (i) inspections conducted in response to a complaint involving a ~~licensed, registered, license-exempt, or unlicensed~~ child welfare agency~~;~~ *and* (ii) inspections of ~~licensed or registered~~ child welfare agencies that are not conducted in response to a complaint~~; (iii) inspections of license-exempt or unlicensed child welfare agencies that have entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant, other than inspections conducted in response to a complaint; and (iv) inspections of license-exempt and unlicensed child welfare agencies that are not conducted in response to a complaint~~.

§ 63.2-1708. Records and reports.

Every licensed assisted living facility, licensed adult day care center, *or* licensed ~~or registered~~ child welfare agency~~, or family day home approved by a family day system~~ shall keep such records and make such reports to the Commissioner as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Commissioner.

§ 63.2-1720. (Effective July 1, 2020, or earlier; see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Assisted living facilities and adult day care centers; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.

A. No assisted living facility or adult day care center shall hire for compensated employment or continue to employ persons who have been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant or continue to employ a person convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies~~,~~ *or* independent foster homes~~, and family day systems, registered family day homes, and family day homes approved by family day systems~~, 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 records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies~~,~~ *or* independent foster homes~~, and family day systems, registered family day homes, and family day homes approved by family day systems~~, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

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

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, *or* licensed independent foster home~~, licensed family day system, registered family day home, or 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 any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies~~,~~ *or* independent foster homes, ~~and family day systems, registered family day homes, and family day homes approved by family day systems~~, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry for any

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compensated employee within 30 days of employment. 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 licensed assisted living facility, adult day care center, child-placing agency, *or* independent foster home~~, or family day system, registered family day home, or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed child-placing agency~~, or family day system, registered family day home, or family day home approved by a family day system~~. Any person desiring to volunteer at a licensed child-placing agency~~, or family day system, registered family day home, or family day home approved by a family day system~~ shall provide the agency, system, or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency~~, or family day system, registered family day home, or family day home approved by a family day system~~ shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (a) the information from the central registry and (b) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency~~, or family day system, registered family day home, or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency~~, or family day system, registered family day home, or family day home approved by a family day system,~~ whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

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

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

I. Notwithstanding any other provision of law, a licensed adult day care center that provides services to individuals receiving services under the state plan for medical assistance services or any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a criminal history background check has been completed for an employee in accordance with this section and (ii) whether such employee is eligible for employment.

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

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

§ 63.2-1721. (Effective July 1, 2020, or earlier; see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Background check upon application for licensure as a child-placing agency, etc.; penalty.

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

B. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check pursuant to subsection B. In addition, foster or adoptive parents requesting approval by child-placing agencies ~~and operators of family day homes requesting approval by family day systems, and any other adult residing in the family day home or existing employee or volunteer of the family day home,~~ shall undergo background checks pursuant to subsection B prior to their approval.

B. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and 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 records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child-placing agencies, independent foster homes, ~~family day systems, and family day homes,~~ or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The person required to have a background check pursuant to subsection A shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, registration or approval. The applicant, other than an applicant for licensure as an assisted living facility, shall provide an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. An applicant for licensure as an assisted living facility shall provide an original criminal record clearance with respect to any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor. If any person specified in subsection A, other than an applicant for licensure as an assisted living facility, required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, 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 subsection E, F, G, or H, (a) the Commissioner shall not issue a license to a child-placing agency~~,~~ *or* independent foster home~~, or family day system or a registration to a family day home;~~ *or* (b) a child-placing agency shall not approve an adoptive or foster home~~; or (c) a family day system shall not approve a family day home~~. If any applicant for licensure as an assisted living facility required to have a background check has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02, the Commissioner shall not issue a license to an assisted living facility.

D. No person specified in subsection A shall be involved in the day-to-day operations of a licensed child-placing agency~~,~~ *or* independent foster home~~, or family day system or a registered family day home~~; be alone with, in control of, or supervising one or more children receiving services from a licensed child-placing agency~~,~~ *or* independent foster home~~, or family day system or a registered family day home~~; or be permitted to work in a position that involves direct contact with a person receiving services without first having completed background checks pursuant to subsection B unless such person is directly supervised by another person for whom a background check has been completed in accordance with the requirements of this section.

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant who has been convicted of not more than one misdemeanor offense as set out in § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, not involving abuse, neglect, moral turpitude, or a minor, provided that 10 years have elapsed following the conviction.

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant who has been convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, or any substantially similar offense under the laws of another jurisdiction, who has had his civil rights restored by the Governor or other appropriate authority, provided that 25 years have elapsed following the conviction.

G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 who has had his civil rights restored by the Governor or other appropriate authority, provided that 10 years have elapsed following the conviction, or eight years have elapsed following the conviction and the applicant (i) has complied with all obligations imposed by the criminal court; (ii) has completed a substance abuse treatment program; (iii) has completed a drug test administered by a laboratory or medical professional within 90 days prior to being

approved, and such test returned with a negative result; and (iv) complies with any other obligations as determined by the Department.

H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02 who has had his civil rights restored by the Governor or other appropriate authority, provided that 20 years have elapsed following the conviction.

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

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

§ 63.2-1722. (For expiration date, see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Revocation or denial of renewal based on background checks; failure to obtain background check.

A. The Commissioner may revoke or deny renewal of a license ~~or registration~~ of a child welfare agency, assisted living facility, or adult day care center~~;~~ *and* a child-placing agency may revoke the approval of a foster home~~; and a family day system may revoke the approval of a family day home~~ if the assisted living facility, adult day care center, child welfare agency, *or* foster home~~, or approved family day~~ home has knowledge that a person specified in § 63.2-1720~~, 63.2-1720.1,~~ *or* 63.2-1721~~, or 63.2-1721.1~~ required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) in the case of a child welfare agency~~,~~ *or* foster home~~, or family day home~~, is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720~~, subsection G of § 63.2-1720.1,~~ or subsection E, F, G, or H of § 63.2-1721, and the facility, center, ~~home~~, or agency refuses to separate such person from employment or service or allows the household member to continue to reside in the home.

B. Failure to obtain background checks pursuant to §§ 63.2-1720~~, 63.2-1720.1,~~ *and* 63.2-1721~~, and 63.2-1721.1~~ shall be grounds for denial, revocation, or termination of a license, registration, or approval or any contract with the Department or a local department to provide child care services to clients of the Department or local department. No violation shall occur if the assisted living facility, adult day care center, child-placing agency, *or* independent foster home~~, family day system, family day home, or child day center~~ has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

§ 63.2-1722. (For effective date, see Acts 2017, cc. 189 and 751, as amended by Acts 2018, cc. 146 and 278) Revocation or denial of renewal based on background checks; failure to obtain background check.

A. The Commissioner may revoke or deny renewal of a license ~~or registration~~ of a child welfare agency, assisted living facility, or adult day care center~~;~~ *and* a child-placing agency may revoke the approval of a foster home~~; and a family day system may revoke the approval of a family day home~~ if the assisted living facility, adult day care center, child welfare agency, *or* foster home~~, or approved family day home~~ has knowledge that a person specified in § 63.2-1720, ~~63.2-1720.1,~~ *or* 63.2-1721, ~~or 63.2-1721.1~~ required to have a background check (i) has been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) in the case of a child welfare agency~~,~~ *or* foster home~~, or family day home~~, is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720~~, subsection G of § 63.2-1720.1, or subsection E, F, or G of § 63.2-1721.1,~~ and the facility, center, or agency refuses to separate such person from employment or service.

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

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

A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720~~, 63.2-1720.1,~~ *and* 63.2-1721~~, 63.2-1721.1, and 63.2-1724~~, may apply in writing for a waiver from the Commissioner. The Commissioner may grant a waiver if the Commissioner determines that (i) the

person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Commissioner shall not grant a waiver to any person who has been convicted of any barrier crime as defined in § 19.2-392.02. ~~However, the Commissioner may grant a waiver to a family day home licensed or registered by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, provided that (a) five years have elapsed following the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction. 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.

§ 63.2-1734. Regulations for child welfare agencies.

~~A.~~ The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services, and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

~~Such regulations governing child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year shall not (i) prohibit school-age children from using outdoor play equipment and areas approved for use by students of the school during school hours or (ii) in the case of public schools, require inspection or approval of the building, vehicles used to transport children attending the child day program that are owned by the school, or meals served to such children that are prepared by the school.~~

~~Such regulations governing orientation and training of child day program staff shall provide that parents or other persons who participate in a cooperative preschool center on behalf of a child attending such cooperative preschool center, including such parents and persons who are counted for the purpose of determining staff-to-child ratios, shall be exempt from orientation and training requirements applicable to staff of child day programs; however, such regulations may require such parents and persons to complete up to four hours of training per year. This orientation and training exemption shall not apply to any parent or other person who participates in a cooperative preschool center that has entered into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant.~~

~~B. The Board shall adopt or amend regulations, policies, and procedures related to child day care in collaboration with the Virginia Recreation and Park Society. No regulation adopted by the Board shall prohibit a child day center from hiring an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, to provide protection for children placed in the care of the child day center or employees of the center. The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services.~~

2. That §§ 2.2-208.1, 63.2-1701.1, 63.2-1704, 63.2-1704.1, 63.2-1715, 63.2-1716, 63.2-1717, 63.2-1720.1, 63.2-1721.1, 63.2-1724, 63.2-1725, 63.2-1727, 63.2-1738, 63.2-1809 through 63.2-1813, and 63.2-1815 of the Code of Virginia are repealed.

3. That the provisions of the first and second enactments of this act shall become effective on July 1, 2021.

4. That the Superintendent of Public Instruction shall establish a plan for implementing a statewide unified early childhood care and education system that incorporates relevant policy-making, funding, governance, oversight, and accountability functions and culminates implementation of the quality rating and improvement system as provided in the tenth enactment of this act. In establishing such plan, the Superintendent shall work cooperatively across the

Secretariats of Education and Health and Human Resources and relevant state agencies and regulatory boards. Such plan shall incorporate and take into account the priorities, responsibilities, and structures needed at the state, local, and regional levels to ensure successful start-up, management, and delivery of a cohesive, aligned early childhood care and education system, as well as outline phases and a timeline for transitioning from the current state to the envisioned state of the system. Such plan shall identify necessary statutory and regulatory changes and necessary steps to transfer lead agency authority for relevant federal programs, including the Child Care and Development Block Grant and Head Start State Collaboration Office grants, to the Department of Education to align with its current administration of the Virginia Preschool Initiative and other early childhood programs. The Superintendent shall report on the implementation plan to the Chairmen of the House Committees on Appropriations, Education, and Health, Welfare and Institutions and the Senate Committees on Education and Health, Finance, and Rehabilitation and Social Services no later than December 1, 2020, and shall provide such Chairmen an update on the implementation of the plan no later than December 1, 2021.

5. That the Department of Social Services and the Department of Education shall enter into a cooperative agreement to ensure a coordinated and seamless transition pursuant to the provisions of this act that occurs by July 1, 2021, and that is cost effective and does not interrupt the provision of state services or have undue impact on the operation or function of either agency.

6. That the regulations adopted by the State Board of Social Services to administer and implement the programs that are to be transferred from the State Board of Social Services to the Board of Education pursuant to this act shall remain in full force and effect until altered, amended, or rescinded by the Board of Education.

7. That guidance adopted by the State Board of Social Services or Department of Social Services relating to programs to be transferred by this act shall remain in effect until amended or repealed.

8. That the initial actions of the Board of Education to adopt, with necessary amendments, the regulations implementing the programs being transferred by this act shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia. After transfer of the programs, if the Board of Education determines that additional amendments to the regulations are necessary solely to enable implementation of the programs in accordance with this act, the regulatory actions necessary shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

9. That by July 1, 2021, the Department of Education shall be the lead agency for the administration of the Child Care and Development Block Grant and the Head Start Collaboration Office.

10. That the establishment and implementation of the quality rating and improvement system described in § 22.1-289.05 of the Code of Virginia, as created by this act, shall occur as follows: (i) the Board of Education shall establish such quality rating and improvement system no later than July 1, 2021, and (ii) the initial quality ratings shall be published in the fall of 2022.