

SENATE JOINT RESOLUTION NO. 35

Establishing a joint subcommittee to study barrier crimes and criminal history records checks. Report.

Agreed to by the Senate, March 8, 2020
 Agreed to by the House of Delegates, March 8, 2020

WHEREAS, barrier crimes are statutorily established crimes, conviction for which disqualifies an individual from eligibility for various types of employment, to volunteer or provide certain services, or to establish or operate certain types of regulated businesses; and

WHEREAS, Virginia's criminal history records check and barrier crimes laws are extensive and require a wide range of individuals to undergo criminal history records checks as a condition of eligibility for employment, to volunteer or provide services, or to establish or operate certain types of regulated businesses; and

WHEREAS, the Commonwealth's laws governing criminal history records checks and barrier crimes vary, sometimes significantly, with regard to categories of individuals required to undergo a background check; the background check process; the types of crimes that disqualify an individual from eligibility for employment or to volunteer, provide services, or establish or operate a business; exceptions to criminal history records check and barrier crime requirements; and opportunities to overcome restrictions and prohibitions related to barrier crimes; and

WHEREAS, the various laws related to criminal history records checks and barrier crimes are not centralized in the Code of Virginia and lack the necessary organization that state agencies and citizens of the Commonwealth need to navigate these provisions; and

WHEREAS, many studies conducted on the Commonwealth's laws governing criminal history records checks and barrier crimes in the Commonwealth have recommended further consideration of the Commonwealth's requirements related to criminal history records checks and barrier crimes, including review of the specific crimes included as barrier crimes and exceptions to these requirements; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study barrier crimes and criminal history records checks. The joint subcommittee shall consist of 11 members that include six legislative members, two nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: two members of the Senate to be appointed by the Senate Committee on Rules; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates; one citizen-at-large to be appointed by the Senate Committee on Rules; and one citizen-at-large to be appointed by the Speaker of the House of Delegates. The Commissioners of the Departments of Behavioral Health and Developmental Services, Health, and Social Services, or their designees, shall serve ex officio with nonvoting privileges. Nonlegislative citizen members shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall be reimbursed only for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall study the Commonwealth's laws related to barrier crimes and criminal history records checks and shall develop recommendations related to (i) whether statutory provisions related to criminal history records checks, barrier crimes, and barrier crime exceptions should be reorganized and consolidated into a central location in the Code of Virginia; (ii) whether certain crimes should be removed from the list of barrier crimes; (iii) whether barrier crime exceptions and waiver processes should be broadened; (iv) whether the required amount of time that must lapse after conviction of certain barrier crimes should be shortened; and (v) other changes that could be made to criminal history records check and barrier crimes requirements that would improve the organization, effectiveness, and fairness of such provisions.

Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2020 interim, and the direct costs of this study shall not exceed \$13,680 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is

agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint committee shall be adopted if a majority of the Senate members or a majority of the House members of the joint committee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint committee.

The joint subcommittee shall complete its meetings by November 30, 2020, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2021 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2020 interim.